

DRAFT CONSULTATION RESPONSE TO EAST CAMBRIDGESHIRE DISTRICT COUNCIL'S PROPOSED APPROACH TO SEEKING DEVELOPER CONTRIBUTIONS

To: Cabinet

Date: 31st January 2012

From: Executive Director: Environment Services

Electoral division(s): All East Cambridgeshire Divisions with particular relevance to:

- Ely South and West
- Ely North and East
- Burwell
- Littleport
- Soham & Fordham Villages
- Soham & Fordham Villages
- Sutton
- Woodditton

Forward Plan ref: **Key decision:** Yes

Purpose: To inform Cabinet of the Preliminary Draft Charging Schedule for the East Cambridgeshire Community Infrastructure Levy (CIL).

Recommendation: Cabinet is invited to:

- a) Consider and endorse the draft consultation response as set out in Appendix A; and
- b) Delegate to the Lead Member for Growth and Planning in consultation with the Executive Director, Environment Services and Local Members, the authority to make any minor changes to the draft consultation response prior to its submission.

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1. BACKGROUND

- 1.1 On the 21st December 2011, East Cambridgeshire District Council published a Preliminary CIL Draft Charging Schedule document for public consultation:

A copy of this document is available to view at:-

<http://www.eastcambs.gov.uk/content/community-infrastructure-levy>

- 1.2 The consultation expires on 2nd February 2012. County Council Members in East Cambridgeshire have been given the opportunity to comment on the document and this draft response reflects their comments. The full draft consultation response is set out in Appendix A of this report.
- 1.3 The Community Infrastructure Levy (CIL) is a new planning charge on development that came into force in April 2010. It largely came about as a result of Government dissatisfaction with the current system and the lack of Section 106 money being secured by local authorities around the country.
- 1.4 The CIL Draft Charging Schedule uses costs set out in the Draft Infrastructure Study which was subject to a viability assessment (see page 7 of the consultation document) and which has been fundamental in defining the proposed CIL rates.
- 1.5 County Officers have assisted in drawing up the Draft Infrastructure Study through an internal CIL Project Team and the work undertaken by this group has been fed through to East Cambridgeshire District Council to allow them to form the charging schedule. County Council Officers have worked closely with East Cambridgeshire District Council in the formation of their CIL proposals and particularly in terms of inputting key infrastructure requirements. The Draft Infrastructure Study sets out the infrastructure needed to underpin new development in the District until 2025.

2. MAIN ISSUES

Community Infrastructure Levy - Preliminary Draft Charging Schedule

- 2.1 East Cambridgeshire District Council (DC) is proposing to levy CIL on most forms of development. Exemptions are applied to affordable housing (which will be secured through s106 agreements), development for charitable purposes and buildings which people do not normally go into. Table 1 below identifies the proposed charges.

Table 1: Proposed CIL Rates

Proposed Charge	CIL rate (per square metre)	Hunts DC Charge
Residential – Littleport and Soham (C3)	£40	NA
Residential – Rest of the district (C3)	£90	£100
Business development (B1, B2 and B8)	£10	£0
Retail (A1, A2, A3, A4 & A5) – large scale (more than 280m2 sales floor)	£120	£140 (1000 sq m or more)
Retail (A1, A2, A3, A4 & A5) – small scale +	£60	£50 (<1000 sq

motor sales units (up to 280m2 sales floorspace)		m)
Equestrian related development (excluding equine hospitals and clinics)	£30	NA
All other uses (unless stated otherwise in this table)	£0	NA

- 2.2 Over the period to 2015/16, the District Council predicts that it could raise around £7M from residential development from CIL. A charge of between £40 (Littleport and Soham) and £90 (rest of the district) per square metre is proposed for residential units across the district. Therefore, an average sized 3-bedroom property (95 sq m) would be expected to pay £3,800 (in Littleport or Soham) or £8,550 (in the rest of the district) in CIL money. By way of comparison, a typical 3 bedroom property in Ely would pay £11,880 under the District Council's s106 Supplementary Planning Document (SPD) (if all contributions were required)
- 2.3 If development in East Cambridgeshire were to fully meet infrastructure costs, a charge of £61,661 per dwelling or £649 per m² would be required. This would be unviable.
- 2.4 Based on the proposed residential CIL rates, the viability gap is £167,827,884 (£193,786,634 (infrastructure costs) - £25,958,750 (income from CIL)). The largest infrastructure costs are transport and education being £105M and £46M respectively. If all required infrastructure is to be provided, these figures will need to be raised by alternative means.
- 2.5 The viability information presented by the District Council suggests that the figures in Table 1 are viable, i.e. can be secured and will not prevent development from happening, and County Officers consider the figure to be reasonable in this present economic climate.
- 2.6 The District Council is entitled to apply a charge of up to 5% for administration on all CIL monies collected. However, it is unclear at this stage whether the County Council will receive any of this administration charge.
- 2.7 The Government expects local authorities to address the viability gap through other sources of funding. East Cambridgeshire District Council predict that £25,698,500 of income will be generated from Government funding and s106 agreements, however, there is no guarantee that these levels of funding will be secured. At present, the prospect of any significant other sources of funding is very uncertain.
- 2.8 The District Council is proposing to scale back the use of s106 agreements, however, they will continue to be used for:-
- development specific infrastructure on large scale major development sites (e.g. primary schools) defined as sites of more than 200 dwellings.
 - site specific mitigation (e.g. archaeology or on-site open space);
 - affordable housing; and

- 2.9 There are significant advantages to the County Council in the continued use of Section (S)106 in this way. Firstly, the funding will be paid directly to the County Council and will not be subject to any risk of paring down through an allocation process. Secondly, it means that the risk of insufficient funding being secured for key infrastructure will be reduced. This is because the planning policy identifies that strategic sites will be expected to provide key facilities on-site and this strong policy background should mean that an appropriate balance is struck between on-site affordable housing levels and ensuring key facilities are also provided.
- 2.10 East Cambridgeshire District Council has indicated that it will revise its s106 Supplementary Planning Document in 2012 to reflect these changes.
- 2.11 County Officers consider the residential figure of £40/90 per square metre to be reasonable in this present economic climate but it is suggested that the response back to East Cambridgeshire strongly suggests that the proposed CIL rates are reviewed on an annual basis.
- 2.12 In addition to the residential rates, other rates are proposed in Table 1. It is recommended that these are also supported on the condition they are reviewed annually.
- 2.13 The East Cambridgeshire Preliminary Draft Charging schedule Consultation Draft sets out a number of questions which are answered in Appendix A of this report. Cabinet is asked to consider and endorse the suggested responses.

3. ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING

3.1 Supporting and protecting vulnerable people when they need it most

- 3.1.1 CIL funding will help to provide essential facilities, such as community buildings, health provision and emergency services, and as such will benefit the whole community including the most vulnerable members.

3.2 Helping people live healthy and independent lives in their communities

- 3.2.1 CIL will provide a range of community facilities including health provision which will contribute towards this priority.

3.3 Developing the local economy for the benefit of all

- 3.3.1 CIL will simplify the process by which developers make contributions to necessary infrastructure and as such should encourage development and thus contribute towards economic growth.

3.4 Ways of working

- 3.4.1 Partnership working with East Cambridge District Council has been strong in the preparation of the infrastructure project list. It is important that this continues. When CIL money is collected in the future, it is important that the authorities work closely together in order to ensure best value and that it is allocated in the most effective way.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource and Performance Implications

- 4.1.1 As noted above, the likely funding gap arising from the proposed implementation of CIL in East Cambridgeshire is approximately £167m although it should be noted that introducing CIL should increase the overall contributions compared to the existing s106 system. Annual reviews of the CIL charges may help to reduce this viability gap. However, there is a significant risk to the County Council that alternative sources of funding may not be found. This will mean that certain infrastructure projects are delayed or never built. Careful consideration will be required when prioritising County infrastructure projects.
- 4.1.2 The District Council is the collection authority for all CIL money. It is crucial that the District Council transfer a proportion of CIL funds to the County Council for County led infrastructure projects. However, strictly speaking, the CIL regulations place no obligation on the District to do this. Technically, the District Council do not have to share any CIL money with the County Council. Whilst this is not expected and work to date has been very constructive on this point, it is recommended that the County's consultation response requests that East Cambridgeshire District Council state the proposed percentage of CIL that they intend to transfer to the County Council and agree to work on the governance of CIL. County Officers and Members will need to work closely with colleagues in East Cambridgeshire to ensure that the County receives its fair proportion of the CIL income.

4.2 Statutory, Risk and Legal Implications

- 4.2.1. The Community Infrastructure Levy is a District wide charge on most new development under the CIL Regulations 2010 to fund a range of local and District wide infrastructure to support residential and economic growth. Even though CIL is described as an optional tool for local planning authorities, severe limitations on the use of Section 106 agreements will come into force in 2014 at the latest. Therefore, for those Districts who have not managed to adopt CIL by 2014, the use of Section 106 agreements will be limited which is likely to result in a reduced income from development contributions and significant additional financial burden on the service provider.
- 4.2.2 South Cambridgeshire and Cambridge City Council are currently working with consultants to produce an infrastructure plan and to assess development viability on a range of sites. A draft charging schedule will be consulted on in the future. Fenland are the least advanced of the Cambridgeshire Districts in developing a Core Strategy and supporting Infrastructure Delivery Plan. The District Council intend to pursue this work through the Fenland Neighbourhood Planning Vision (formerly 'Shaping Fenland') initiative. Timetables are not yet clear.

4.3 Equality and Diversity Implications

- 4.3.1 There are no significant implications for equality and diversity.

4.4 Engagement and Consultation

4.4.1 The report above sets out the consultation process in paragraphs 1.1 and 1.2.

4.4.2 Both Members and Officers have been consulted on the draft charging schedule and their comments are reflected in the draft response.

Source Documents	Location
East Cambridgeshire Community Infrastructure Levy – Preliminary Draft Charging Schedule	New Communities 2 nd Floor, A Wing Castle Court http://www.eastcambs.gov.uk/content/community-infrastructure-levy

APPENDIX A – Preliminary Charging Schedule

The following sections contain draft comments on the specific questions asked by East Cambridgeshire District Council in the CIL consultation.

1) What are your views in the split between CIL and Section 106 agreements? What should be left to Section 106 agreements and what should be covered by CIL?

The County Council has in the past secured significant developer contributions for infrastructure via the S106 process and so supports the principle of this approach. The additional CIL contributions will enable more contributions from smaller developments to be captured.

East Cambridgeshire District Council proposes that education, community (including libraries), health, transport, economic regeneration, environment, open space, sports facilities, emergency services and affordable housing will be captured either as site specific s106 provisions or through CIL funding.

The County Council supports this approach.

2) Do you agree that the CIL Infrastructure Study and funding gap analysis demonstrates there is justification for introducing CIL?

CIL is, in effect, non-discretionary and therefore the only vehicle to provide funding for new development.

Whilst the rationale for encouraging growth is understood and supported it should be recognised that the CIL rate proposed will leave a funding gap that will need to be filled by other funding. However, in many cases, this alternative funding may not have been identified or be available, leaving the County Council exposed to a financial risk in fulfilling its statutory funding.

3) Do you agree with the methodology and key assumptions used in the Viability Assessment? If not, what alternative methods/assumptions would you suggest, and why?

Dixon Searle Partnership (DSP) has conducted a Viability Assessment of the CIL rates for East Cambridgeshire District Council and has made the recommendations set out in Table 1 of this report.

The Viability Report has not been subject to expert review by County Council Officers.

It is accepted that the DSP Report also recommends the monitoring and review of the CIL rate.

4) Do you agree with the proposed CIL rates and geographical charging zones for residential development?

It is acknowledged that different parts of East Cambridgeshire have different viability challenges. However, it should be noted that the costs to the County Council of providing services and infrastructure are generally uniform across the District. For

example the cost of providing a new school in Littleport would be the same as providing a new school in Ely.

The County Council supports these rates subject to a review on an annual basis to address this viability gap.

5) Do you agree with the proposed CIL rates for business development?

Business and general industrial units will often have a significant impact on the transport and highway network; however, in the interests of supporting economic growth in the District, the County Council accepts this rate at present. As per the other rates, it should be reviewed on an annual basis.

6) Do you agree with the proposed CIL rates for retail development?

It is acknowledged that the infrastructure required from this type of development can be significant. The County Council accepts this rate on the condition that it is reviewed on an annual basis.

7) Do you agree with the proposed CIL rates for equestrian related development?

It is acknowledged that the range of County infrastructure required from this type of development is lower than for residential development and therefore the rate is lower. The County Council accepts this rate on the condition that it is reviewed on an annual basis.

8) Do you agree with the proposed zero CIL rates for all other types of development?

It is acknowledged that other development may have an impact on the transport and highway network for example. However, in the interests of supporting economic growth in the District, the County Council accepts this rate at present. As per the other rates, it should be reviewed on an annual basis.

9) Do you have a view on how the District council should co-ordinate and work with infrastructure and service providers to ensure the delivery of infrastructure projects funded through CIL.

It is requested that East Cambridgeshire District Council state the proposed percentage of CIL that they intend to transfer to the County Council and agree to work together on the governance of CIL. County Officers and Members will need to work closely with colleagues in East Cambridgeshire to ensure that the County receives its fair proportion of the CIL income and a clear statement as to how the CIL monies will be split needs to be agreed prior to the CIL Charging Schedule adoption.