

Response to South Cambridgeshire District Council, Community Infrastructure Levy (CIL) - Draft Charging Schedule Consultation.

To: Economy and Environment Committee

Meeting Date: 8th July 2014

From: Executive Director Economy Transport & Environment

Electoral division(s): Cottenham, Histon and Impington, Waterbeach, Fulbourn, Linton, Duxford, Sawston, Melbourn, Bassingbourn, Gamlingay, Bourn, Hardwick, Bar Hill, Papworth and Swavesey, Willingham

Forward Plan ref: Not applicable Key decision: No

Purpose: The Committee is asked to consider the draft response (Appendix 2) to the South Cambridgeshire CIL Draft Charging Schedule consultation

Recommendation: It is recommended that the Committee;

a) Agree the current proposed draft response.

b) Delegate to the Executive Director, Economy, Transport and Environment, in consultation with the Chairman and Vice-Chairman of the Economy and Environment Committee, the authority to make minor amendments as necessary to the response prior to submission.

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1. BACKGROUND

- 1.1 The Community Infrastructure Levy (CIL) came into force in April 2010. It allows local authorities in England and Wales to raise funds from developers undertaking new building projects in their area. The money can be used to fund a wide range of infrastructure that is needed as a result of development.
- 1.2 CIL will largely replace Section 106 agreements which required individual developments to make specific contributions towards area wide or offsite infrastructure. Section 106 will in the main be restricted to providing site specific infrastructure requirements and related mitigation measures. Appendix 1 provides a background note on CIL & Section 106 for information.
- 1.3 Charging authorities must set out an agreed list of infrastructure to be funded through CIL. This is referred to as a Regulation 123 list. The District Councils, as Local Planning Authorities, are the designated charging authorities and are required to publish this list. Items on the list are eligible for CIL funding but cannot be funded from Section 106. These lists are prioritised as CIL will not cover the full infrastructure requirements.
- 1.4 The County Council works with the District Council to set out our infrastructure requirements, primarily covering Schools, Transport, Libraries and Waste, as well as other infrastructure such as IT and Energy where appropriate, and to agree priorities. However it is the charging authorities that have the final decision on what is on the list and its priority.
- 1.5 The levy is intended to focus on new infrastructure for growth, rather than to remedy existing deficiencies. Charging authorities can work collaboratively to pool funds to support delivery of sub-regional infrastructure. South Cambridgeshire, Cambridge City and the County are working closely on City Deal which provides further opportunity for discussing and prioritising infrastructure needs.
- 1.6 To date, within Cambridgeshire, only Huntingdonshire and East Cambridgeshire have adopted CIL. South Cambridgeshire (SCDC) and Cambridge are currently working toward introducing CIL by spring 2015. Fenland is currently carrying out viability work to test the impact of introducing CIL on local developments.

2. CIL CONSULTATION

- 2.1 As part of this process of introducing CIL, South Cambridgeshire is consulting on a Draft Charging Schedule and Regulation 123 List. This is the second part of the consultation as they have already consulted on their preliminary draft charging schedule.
- 2.2 Cambridgeshire County Council responded to the first stage of the consultation following consideration at Cabinet on the 8th of Oct 2013. This response welcomed the introduction of CIL charges but raised concern regarding the likely significant funding shortfalls for infrastructure, with CIL only expected to cover some 20% of the total infrastructure bill for most authorities. The Council also raised concerns over the proposed nil rates for commercial development given the likely impacts, and the need to ensure a consistent approach to charging where evidence on viability supports charges. The Council highlighted the importance of ensuring that essential

infrastructure receives funding and offered to work with the District to update the infrastructure lists and support prioritisation work.

- 2.3 The consultation started on the 28th of April and runs to the 7th of July 2014. The Draft Schedule is largely the same as the Preliminary schedule with a rate of £100 per square metre proposed for residential uses, except for land in Teversham Drift which will be £125 sqm, which is comparable with the City Council residential proposal. No CIL charge is proposed for strategic development sites, which will allow S106 to be used to provide for the site-specific (including community, education and transport) infrastructure necessary to support the development.
- 2.4 The only substantive change since the first consultation is that previously, 'retail' on strategic sites was to be CIL liable; however these sites will now be covered by Section 106 agreements, not CIL.

3. RESPONSE TO CONSULTATION – KEY ISSUES

- 3.1 The committee is asked to consider the response to the consultation (Appendix 2). The main issues are set out below;
- 3.2 The introduction of CIL charging in South Cambridgeshire is to be welcomed, especially given the infrastructure challenges envisaged to facilitate planned growth over the next two decades. CIL and Section 106 funding will be vitally important for funding infrastructure necessary to support growth. Indeed the City Deal was agreed on the basis that adequate developer contributions would be secured to ensure that all sources are maximized to enable transformational improvements to be delivered in support of growth.
- 3.3 A concern remains regarding the proposed nil rate for commercial and business uses, and no further evidence has been provided to demonstrate the case for this exemption. A consistent approach needs to be applied to ensure all areas contribute to infrastructure improvements where this is deemed viable. There is a lack of consistency in charging for commercial and business uses and ideally there should be a consistent approach with underpinning evidence across Cambridgeshire.
- 3.4 The draft Regulation 123 list which is also being consulted on excludes primary schools, which means that primary schools would be ineligible for CIL. However contributions from up to five developments could be pooled toward primary school provision and work that SCDC have carried out indicates that this approach is likely to secure more funding than is likely through CIL. Education colleagues confirmed that on the basis of the evidence provided, that funding primary schools through S106 appears to be the most appropriate method.
- 3.5 The Transport Strategy sets out key transport requirement for corridors such as the A10, A428 and A1307 and work is needed to clarify how infrastructure is prioritised to ensure that sufficient funding is captured towards essential infrastructure to facilitate growth. Officers propose that infrastructure directly attributable to one or more strategic sites should be funded in part through S106 and that all other transport projects which directly benefit the wider district should form part of the Reg123 list. It should be noted however that developer contributions, however collected, are unlikely to be sufficient to

cover the full costs of transport infrastructure and the support of City Deal will be critical to the delivery of major transport infrastructure..

- 3.6 The County Council will be keen to ensure that CIL funding is secured in a timely fashion towards agreed priorities and will not delay the delivery of essential infrastructure needed for development and will be keen to work with the District to profile funding requirements.
- 3.7 The draft installments policy (see source documents) sets out a payment schedule for developers dependent on the amount of CIL funding that they are required to pay. The County Council needs to ensure that the time periods included will not delay the delivery of essential infrastructure needed to support development. It will be important to work with the local authorities to profile funding requirements over time to ensure clarity over what funding will be available when to support delivery of priority infrastructure. This will also be important to identify if additional borrowing requirements are likely to be needed, and to consider costs and affordability for the authorities.

4. ALIGNMENT WITH CORPORATE PRIORITIES

4.1 Developing the local economy for the benefit of all

CIL as a levy on new development will contribute towards developing the local economy by providing funding to support infrastructure needed for jobs and housing growth.

4.2 Helping people live healthy and independent lives

CIL funding has the potential to be used to support infrastructure and services related to growth and support the delivery of healthy sustainable communities.

4.3 Supporting and protecting vulnerable people

CIL is expected to fund improvements to the transport network related to growth to enhance accessibility and travel mode choice. It will also provide funding for community facilities in support of new and growing communities.

5. SIGNIFICANT IMPLICATIONS

5.1 Resource Implications

The introduction of CIL will impact on the funding of capital projects. This is particularly as there will be less potential for pooling S106 towards projects, and there could also be a shortfall in CIL funding towards off site and district wide infrastructure related to growth, and priorities will need to be established.

5.2 Statutory, Risk and Legal Implications

The main risk to the County Council is that there will not be enough CIL funding to deliver the infrastructure needed to support growth and development within Cambridgeshire. This could have significant implications for delivering essential community, education and transport infrastructure and services and the County Council will need to work with the local authorities to agree priorities and levels of funding expected from CIL over time. It should be noted however that this is not a new risk arising from the introduction of

CIL; it is an existing risk that the developer contributions, however collected, are insufficient to meet infrastructure needs.

5.3 Equality and Diversity Implications

There are no significant implications for any of the prompt questions within this category.

5.4 Engagement and Consultation Implications

Currently South Cambridgeshire District Council as the lead authority for CIL is consulting widely on CIL proposals.

5.5 Public Health Implications

CIL is expected to provide funding to support community, education and transport infrastructure related to growth and to also support provision of sustainable transport which will help support healthy active and sustainable communities for the future.

SOURCE DOCUMENTS GUIDANCE

Source Documents	Location
<i>Preliminary Draft Charging Schedule</i>	https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/South%20Cambridgeshire%20District%20Council%20Community%20Infrastructure%20Levy%20Preliminary%20Draft%20Charging%20Schedule%20REVISED.pdf
<i>Cabinet Report – Preliminary Draft Charging Schedule Response</i>	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/AgendaItem.aspx?agendaItemID=7438
<i>Draft Charging Schedule</i>	https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Draft%20Charging%20Schedule.pdf
<i>Draft Reg123 list</i>	https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Draft%20Regulation%20123%20infrastructure%20list.doc.pdf
<i>Draft instalments policy</i>	https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Draft%20CIL%20instalment%20policy.doc.pdf
<i>Draft charging schedule and supporting document</i>	https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Draft%20Charging%20Schedule%20and%20Supporting%20document.doc_2.pdf
<i>Draft Charging Schedule statement of representations procedure</i>	https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Draft%20Charging%20Schedule%20statement%20of%20representations%20procedure.doc

<p>Statement of representations on the Preliminary Draft Charging Schedule</p> <p>Public Notice</p> <p>Community Infrastructure Levy - Guidance</p>	<p>_1.pdf</p> <p>https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Statement%20of%20representations%20on%20the%20Preliminary%20Draft%20Charing%20Schedule.doc.pdf</p> <p>https://www.scambs.gov.uk/sites/www.scambs.gov.uk/files/documents/Public%20notice_0.pdf</p> <p>http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf</p>
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Appendix 1 Briefing note on S106 & CIL

Planning Obligations – Briefing Note

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) are usually known as S106 obligations. These are a mechanism which makes a development proposal acceptable in planning terms that would not otherwise be acceptable. They are focused on site specific infrastructure and mitigation of the impact of development. S106 agreements are often referred to as 'developer contributions' along with highway contributions (s278 agreements) and the Community Infrastructure Levy (CIL). The common uses of planning obligations are to secure affordable housing, and to specify the type and timing of this housing; and to secure financial contributions to provide infrastructure or affordable housing.

The Community Infrastructure Levy (CIL) is a levy that local authorities can choose to charge on new developments in their area. The money can be used towards area wide infrastructure such as Education, Transport, Libraries and Waste. The Levy was introduced by the Planning Act 2008 and it came into force on 6 April 2010 through the Community Infrastructure Levy (CIL) Regulations 2010. While the introduction of CIL will mean restrictions for S106, planning obligations can still be collected but their use will be greatly restricted to site specific requirements or mitigating the impacts of development. From April 2015 or in those areas where CIL has been adopted, authorities will be restricted from pooling obligations from more than 5 S106 agreements for a piece of infrastructure and in most cases CIL will be used towards the area wide or more strategic infrastructure. However, S106 will still be used for site specific infrastructure and to mitigate the impact of growth for the large/ major sites.

The administration of the Community Infrastructure Levy falls to the 'Charging Authority'. In Cambridgeshire, this is the City and District Councils. They are responsible for:

- Setting the CIL rates – when setting these rates authorities must balance the infrastructure needs to support development and the viability of development. These rates vary from authority to authority and can vary by development type and size. These are then published in a charging schedule.
- Agreeing the list of infrastructure (Regulation 123 list) that is to be funded through CIL. Charging authorities are required to publish this list and are then only able to collect CIL for these items and not S106 payments. These lists are prioritised, as CIL will not cover the full infrastructure requirements. (At the very most we anticipate that CIL will cover 25% of infrastructure requirements.) The County Council works with the District Councils to set out our infrastructure requirements and to agree priorities for CIL money.

There have been a number of recent exemptions and deductions to CIL which will impact further on the amount of funding available for strategic infrastructure;

- The Charging Authority can use 5% of the amount of CIL collected to pay for administration of the scheme.

- To help communities to accommodate the impact of new development 15% of revenues collected in that area will be passed to the parish in which development occurs. If the parish has a neighbourhood plan this will be 25%. This is a significant amount and parishes should be aware that this is not new funding as it previously would have paid for infrastructure through a S106 agreement. This means that the County Council will have less to spend on Education, Transport etc. We would encourage parishes to work with both the Districts and the County Council in deciding on how they spend their funding and to support infrastructure needed for growth.
- Exempting those building their own homes, extending existing ones or building residential annexes from the levy.
- Charity landowner gets full relief from their portion of the liability where the chargeable development will be used wholly, or mainly, for charitable purposes.
- Social housing gets 100% relief
- Discretionary relief on discount market sales
- Grant discretionary relief when a Section 106 agreement is in place.

The key issue for the County Council is to ensure that our infrastructure priorities are properly reflected in the Charging Authorities Regulation 123 list to ensure that funding will be available towards infrastructure necessary for growth. Shortfalls in funding will impact on what can be delivered and may need to be made up through borrowing. This will impact on the ability of the authority to deliver vital services and may slow the pace and scale of growth.

To date within Cambridgeshire, Huntingdonshire & East Cambridgeshire have adopted CIL, with the remaining Authorities working towards introducing CIL most likely by the end of 2014, early 2015.

For more detailed national guidance please follow the link below;
http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf

Appendix 2

Draft response to the Draft Charging Schedule Consultation

1. Do you support or object to the Council's view that it has demonstrated a sufficient infrastructure funding gap to justify the need to charge a Community Infrastructure Levy?

The introduction of CIL charging in South Cambridgeshire is to be welcomed, especially given the infrastructure challenges envisaged to facilitate planned growth over the next two decades. While the City Deal will certainly help towards funding of transformational infrastructure improvements, this is additional, and CIL and Section 106 funding will be vitally important for funding infrastructure necessary to support growth.

The Cambridge and South Cambridgeshire Infrastructure Study shows that there is currently a funding gap. The County Council would like to see this study refreshed as since the last up-date, a lot of work has been carried out on refining the list of transport infrastructure required to support development as part of the City Deal and Cambridge and South Cambridgeshire Transport Strategy processes. This would give a more accurate picture of the current infrastructure gap.

2. Do you support or object to the Council's view that the proposed rates are informed by and consistent with, the evidence on economic viability across the District?

The County Council is supportive of the proposed residential and retail rates. The County Council is also supportive of the principle of exempting strategic sites; this will allow Section 106 agreements to be used which will give greater certainty of funding for essential infrastructure needed to support these developments.

However in line with our previous response, we remain concerned about the proposed nil rate for commercial and business premises and do not support this element of the charges without clear evidence on viability to demonstrate the case.

As previously stated given our thriving local economy and predicted business growth, there needs to be recognition of the impact that businesses have on infrastructure and the need for a consistent approach to ensure that all areas are contributing to support infrastructure improvements where deemed viable. Our concern remains therefore regarding the proposed nil rate for commercial and business uses, and no further evidence has been provided to demonstrate the case for this exemption. A consistent approach needs to be applied to ensure all areas contribute to infrastructure improvements where this is deemed viable. There is a lack of consistency in charging for commercial/ business and ideally there should be a consistent approach with underpinning evidence across the County to help secure contributions to provide and maintain the infrastructure in support of growth.

3. Do you support or object to the Council's view that the rates proposed represent an appropriate balance between the desirability of funding infrastructure and the need to maintain the overall viability of growth across the District?

The County Council has not been involved in any detailed viability work so cannot comment on the specific balance, but agrees that an appropriate balance does need to be struck between the desirability of funding infrastructure and maintaining overall

viability. The County's view remains that the levy should be charged on a consistent basis and that if it is deemed viable, that a commercial and business rate should be introduced to ensure that the impacts on infrastructure particularly the road network of business growth can be considered and charged for in a consistent way.

4. Do you support or object to the Council's view that the proposed rates would assist delivery of the proposed Local Plan?

The County Council believes that the current proposed rates would assist in the delivery of the Local Plan. However the County Council believes that a charge for business and commercial units would provide further funding for infrastructure, supporting the delivery of the Local Plan whilst not discouraging business from developing.

The County Council is keen to work with the District to update the infrastructure lists and identify priorities for CIL to ensure that the most essential infrastructure needed to deliver the Local Plan receives CIL funding.

5. Do you support, object or have any comments to make in relation to the interaction between Section 106 and CIL following the adoption of a charging schedule?

In principle the County Council is supportive subject to clarifying and agreeing the scheme specifics for the Regulation 123 list. More detailed consideration will be needed regarding income predicted and priorities to ensure that sufficient funding is secured towards essential infrastructure.

There are significant infrastructure requirements and further consideration is needed as to how the Regulation 123 list is structured to ensure that sufficient funding is secured towards essential infrastructure. The Transport Strategy sets out key transport requirement for corridors such as A10, A428 and A1307 and work is needed to clarify how infrastructure is categorised to ensure that sufficient funding is captured to support delivery of essential infrastructure. Officers propose that infrastructure directly attributable to one or more strategic sites should be funded in part through s106 and that all other transport projects which directly benefit the wider district should from part of the Reg123 list.

Primary schools are not included on the Regulation 123 List and as such are likely to be ineligible for CIL. However S106 contributions from up to five developments could be pooled toward primary school provision and work that SCDC has carried out indicates that this approach is likely to secure more funding than is likely through CIL. The County Council is keen to ensure that adequate funding is secured towards education and on the basis of the evidence provided thus far, it would appear that funding primary schools through S106 appears to be the most appropriate method.

6. Do you support or object to the Draft Regulation 123 list?

In principle the County Council is supportive subject to clarifying and agreeing the scheme specifics for the Regulation 123 list and agreeing priorities to ensure that sufficient funding is secured towards essential infrastructure.

There are significant infrastructure requirements and further consideration is needed as to how the Regulation 123 list is structured to ensure that sufficient funding is secured towards essential infrastructure.

The draft Regulation 123 list excludes primary schools, which means that primary schools would be ineligible for CIL. However S106 contributions from up to five developments could be pooled toward primary school provision. Work that SCDC carried out indicates that this approach is likely to secure more funding than is likely through CIL. Education colleagues confirmed that on the basis of the evidence provided, that funding primary schools through S106 appears to be the most appropriate method.

The Transport Strategy sets out key transport requirement for corridors such as A10, A428 and A1307 and work is needed to clarify how infrastructure is categorised to ensure that sufficient funding is captured to support delivery of essential infrastructure. Officers propose that infrastructure directly attributable to one or more strategic sites should be funded in part through s106 and that all other transport projects which directly benefit the wider district should form part of the Reg123 list.

7. Do you support or object to the Draft Instalment Policy?

In principle the County Council supports the introduction of a Draft Instalment policy.

The County Council will be keen to ensure that CIL funding is secured in a timely fashion towards agreed priorities and will not delay the delivery of essential infrastructure needed for development and will be keen to work with the District to profile funding requirements.

Work is needed with the charging authority to look at the impact that this policy may have on the ability of the County Council to deliver essential infrastructure and the associated costs that may be incurred through any additional borrowing.

8. Do you support or object to the Council's view that it has complied with the requirements set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (amended)?

The County Council support the view that SCDC complied with the requirements set out in Part 11 of the Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (amended).

9. Do you have any other comments supporting or objecting to the Draft Charging Schedule Consultation Document or any of the associated evidence documents?

None

10. Do you wish to register to speak and make additional comments in person during the Examination of the Draft Charging Schedule?

No – not unless called to speak.