

<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Cabinet</b>	
MEETING DATE:	<b>11<sup>th</sup> April 2012</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 2325</b>
TITLE:	<b>A Community Infrastructure Levy for Bath &amp; North East Somerset</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix A: B&NES Preliminary Draft Charging Schedule		

## **1 THE ISSUE**

1.1 The Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule has been prepared for public consultation. The CIL is a new tariff system that allows local authorities to raise funds from developers to contribute to the costs of providing the infrastructure needed to support new development. The introduction of CIL coincides with significant changes to the s.106 regime. From April 2014, local authorities will no longer be able to operate their existing s.106 arrangements and to secure developer contributions they will need to have adopted a CIL Charging Schedule.

## **2 RECOMMENDATION**

The Cabinet agrees that:

2.1 The preliminary draft charging schedule (Appendix A) is approved for a public consultation in April – June 2012.

2.2 Responsibility is delegated to the Divisional Director of Planning & Transport, in consultation with the Cabinet Member for Homes & Planning, to make minor textual amendments prior to publication of the CIL Preliminary Draft Charging Schedule for public consultation.

2.3 A procedure to monitor annually and review the CIL to ensure rates remain appropriate and effective is established.

2.4 Following consultation on the preliminary draft charging schedule a further report is considered by Cabinet on the draft charging schedule

### **3 FINANCIAL IMPLICATIONS**

- 3.1 CIL has the potential to make an important contribution to the funding of infrastructure needed to support the District's long term growth aspirations as set out in the Core Strategy. It is estimated that CIL could yield around £ 21.5 million up to 2026 (the Core Strategy plan period). CIL can only be levied if there is a funding gap in infrastructure provision.
- 3.2 The Infrastructure Delivery Programme (IDP Nov 2011) identifies the infrastructure required from a broad range of Service Providers and statutory undertakers to deliver the District's plans for growth in the Core Strategy. The IDP includes an estimate of the costs although this is continually being updated and refined. The costs and requirements in the longer term are unavoidably more difficult to identify. The IDP is therefore a 'live' document subject to ongoing updating and refinement. It is not a formal investment programme and does not entail financial commitment by the Council or other statutory providers. It will be subject to prioritisation, influenced by the sequence of development and availability of funds.
- 3.3 The IDP confirms that there is a funding gap to which CIL will need to make a contribution. However CIL will not be the sole funding source. It will supplement other potential funding streams such as Business Rate Growth, New Homes Bonus, the Revolving Infrastructure Fund and HCA funding. Each of these will need to be considered by the Council as part of its medium term service and resource planning process as for example, New Homes Bonus is currently being used to help support frontline services.
- 3.4 The preparation of CIL during 2011/12 has been funded by New Growth Point Funding. This will continue during 2012/13 in conjunction with the Local Development Framework budget. A request has therefore been made to carry over the £13,000 unspent New Growth Point funding to 2012/13 to fund the preparation of CIL.
- 3.5 Alongside setting the CIL charging schedule, work is underway to establish the Local Authority as a CIL Charging Authority. This includes the appointment of a CIL Coordinator to arrange and oversee charging arrangements and s.106/CIL monitoring officer to implement CIL.
- 3.6 Charging Authorities will be able to use funds from the levy to recover the cost for setting up and administering the levy using up to 5% of their total receipts on administrative expenses.
- 3.7 The Council has secured nearly £20 million through s.106 agreements in the last 10 years. However, the current Planning Obligation SPD will need to be reviewed during 2012/13 to align it with CIL. This work will

be funded by the Local Development Framework budget during 2012/13.

- 3.8 In order to determine what infrastructure the funds gained through CIL will be spent on, the Council must prepare a “Regulation 123 Statement”. The spending priorities will be informed by the Council’s infrastructure Delivery Plan and the Planning & Financing the Future project. A meaningful amount must also be apportioned to local communities where the development takes place but the Government is yet to issue guidance on this.

## 4 CORPORATE PRIORITIES

- *Promoting independence and positive lives for everyone*
- *Creating neighbourhoods where people are proud to live*
- *Building a stronger economy*

- 4.1 The CIL will contribute to economic growth through facilitation of the infrastructure needed to support new development. This will also help to ensure that the types of new neighbourhoods created are those in which people are proud to live.

## 5 THE REPORT

### Overview of the Community Infrastructure levy

- 5.1 The Community Infrastructure Levy allows local authorities to charge a levy on new development to raise funds to contribute to the costs of infrastructure to enable growth.
- 5.2 The money raised must be used to provide infrastructure to support the development of the area. For example by providing new roads and transport, school places, local amenities such as a park, community centre, or a new health centre. However, CIL will not be sufficient to fund all infrastructure – it is intended to contribute to the funding gap that remains once other sources of funding have been explored. CIL applies to net increases in floorspace and is charged at a rate per m<sup>2</sup>. Local authorities can charge and spend the levy and are known as **charging authorities**.
- 5.3 Charging authorities must produce a **charging schedule** that sets out the rate or rates they will charge. They are required to consult their residents and other interested parties in setting their rate(s) and those rate(s) must be supported by evidence. The key consideration in setting the rate is the impact on the economic viability of new development. Consultation is required at an early stage (Preliminary Draft Charging Schedule) and on the Draft Charging schedule.

5.4 Draft Charging schedules are examined publically by an independent examiner who will assess whether the legislation has been complied with and that the rates that are proposed will support rather than harm the delivery of new development. The preparation procedures are governed by statute and the timetable for B&NES is set out below.

*Table 1: Overall timetable*

<b>Key Stage</b>	<b>Date</b>
<b>Project commencement</b>	July 2011
<b>Publish Preliminary Draft Charging Schedule</b> <i>This is the first stage of public consultation and the Council will amend the Draft Charging Schedule in light of comments received.</i>	April – June 2012
<b>Public Consultation on Draft Charging Schedule</b> <i>This is the second consultation which will be used to further shape and refine the CIL.</i>	Autumn 2012
<b>Submission</b> <i>The Draft Charging Schedule submitted to the Secretary of State.</i>	January 2013
<b>Examination</b> <i>Draft Charging Schedule examined in public by an independent inspector.</i>	March 2013
<b>Report</b> <i>The independent examiner's makes recommendations.</i>	June 2013
<b>Adoption</b> <i>The final version of the document adopted by the council</i>	September 2013

## **Monitoring**

5.5 The adoption of a CIL system relies on viability assessments undertaken at a fixed point in time. It is acknowledged that fluctuations in the markets and changes in building costs may have significant impact on development viability. Therefore the Council will establish a procedure to monitor annually and review the CIL to ensure rates remain appropriate and effective. Any changes to CIL rates will be subject to consultation as set out in the CIL Regulations.

## **Preliminary Draft Charging Schedule**

5.6 The Preliminary Draft Charging Schedule ( Appendix A) sets out the levels of CIL that the council proposes to charge. In deciding the rate(s) of CIL, the most important consideration for authorities is achieving a balance between securing additional investment for infrastructure to

support development and the potential economic effect of imposing CIL upon development across the district.

5.7 The Preliminary Draft Charging Schedule rates have been arrived at by assessing the level of CIL at which development remains viable as informed by the **Viability Study** which is available as a background paper. Additional corroboration of the Viability Study has been undertaken through the **Planning and Financing the Future** project. Progression of this project, which is looking at options for financing the delivery of Bath City Riverside 'City of Ideas' Enterprise Area, was agreed by Cabinet in November 2011 (see Cabinet Report as a background paper). The results of the work are currently anticipated to be reported to Cabinet in June 2012.

DEVELOPMENT TYPE	CIL RATE	
<b>Residential (Class C3) (including sheltered accommodation)</b>	<b>Residential Zone A</b> Bath Bath North and East Chew Valley West Bath North/West/South Chew Valley East Keynsham Norton Radstock	£ 100 m <sup>2</sup>
	<b>Residential Zone B</b> Bath Rural/Bathavon	£ 200 m <sup>2</sup>
<b>Office</b>	£ nil m <sup>2</sup>	
<b>Hotel</b>	In Bath £100 m <sup>2</sup>	
	Outside Bath £ nil m <sup>2</sup>	
<b>In-centre/High Street Retail</b>	Bath city centre	£150 m <sup>2</sup>
	Other centres	£ nil m <sup>2</sup>
<b>Out-of and Edge-of Centre Retail</b>	<280m <sup>2</sup>	£ nil m <sup>2</sup>
	>280m <sup>2</sup>	£150 m <sup>2</sup>
<b>Industrial and warehousing</b>	£ nil m <sup>2</sup>	
<b>Student accommodation</b>	On Campus £60 m <sup>2</sup>	
	Off Campus £100 m <sup>2</sup>	
<b>Any other development</b>	£ nil m <sup>2</sup>	

## **Options**

- 5.8 If there is significant spatial variation of viability, a charging authority can vary the rate across the district. Likewise, the Council can also differentiate in the rate between different uses such as residential or commercial if supported by the evidence. The evidence in Bath & North East Somerset indicates that both a geographic and a development type differentiation is warranted.

## **Links with other key documents/initiatives**

- 5.9 **Core Strategy and Economic Strategy** – preparing a CIL charging schedule will help demonstrate the deliverability of the infrastructure that is needed to support the development proposed in these strategies. The Council must have an adopted Core Strategy before it can adopt CIL. It is anticipated that the Core Strategy will be adopted later this year.
- 5.10 **Infrastructure Delivery Plan (IDP)** – the Council’s IDP prepared identifies the infrastructure needs in the district to support its growth aspirations. As well as being a key evidence for the Core Strategy, it forms the basis for the setting of the CIL level.
- 5.11 **Planning and Financing the Future (PaFF)** - PaFF is a pilot study instigated to test the viability and deliverability of different quantum and mixes of development across ten strategic sites within the Bath City Riverside ‘City of Ideas’ Enterprise Area. The PaFF work has been undertaken using a common assessment base with the CIL work. The PaFF project has studied specific sites but the CIL viability study provides the more strategic assessment as required by the regulations.

## **CIL and Section 106 Planning Obligations**

- 5.12 Planning obligations (s. 106 Agreements and unilateral undertakings) will continue to be required on individual developments to provide site specific mitigation. Whilst there is some scope for pooling S106 contributions, they cannot overlap with CIL payments. It is therefore necessary to revise the B&NES Planning Obligations Supplementary Planning Document (SPD) and publish it alongside the CIL draft charging schedule submission document in autumn 2012.
- 5.13 To avoid overlap with s.106, a charging authority may publish, on its website, a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by the CIL. This list is described as ‘**Regulation 123 Statement**’. The process of setting up and updating the list is separate to the formal process of setting and reviewing its charging schedule.

## **Affordable Housing**

- 5.14 Currently CIL excludes Affordable Housing. However the Government is reviewing this position. If any changes are made, these will need to be taken on board during the preparation of the B&NES CIL.

## **How will the levy be spent?**

- 5.15 The levy is intended to focus on the provision of new infrastructure rather than remedy pre-existing deficiencies. The Regulation 123 Statement will set out the Council's infrastructure spend priorities. Local authorities are required to pass a meaningful proportion of receipts arising from development to local neighborhoods where development takes place. This requires the Council to establish a formal process.

## **6 RISK MANAGEMENT**

- 6.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.
- 6.2 If adoption of CIL is delayed beyond April 2014, the funding that the Council can secure from new development will be significantly reduced. As a prerequisite for adoption of CIL is an adopted Core Strategy, there is some risk to the programme for preparation of CIL if there is any delay in the Core Strategy. Therefore some contingency has been built into the timetable to allow for delays or any unforeseen events.
- 6.3 The non-negotiable nature of CIL may result in pressure on the remaining negotiable development contributions under s.106 (such as affordable housing) if unusual development costs arise on specific sites.

## **7 EQUALITIES**

- 7.1 An EqlA has been completed. No adverse or other significant issues were found. The Regulation 123 Statement will need to be part of a separate EqlA.

## **8 RATIONALE**

- 8.1 Establishing a CIL tariff will give developers certainty on what they will have to pay. It will also spread the cost of providing infrastructure across a wider range of developments, including the cumulative impact of small schemes, which may not have previously contributed under s.106 arrangements. CIL is a levy on all eligible development which is

different from the site specific nature of s.106 obligations. This is important as from 2014 it will no longer be possible to pool contributions (limited to 5 schemes) gained through S106, so the council would no longer be able to take open space or sustainable transport contributions in the way it currently does if it does not introduce CIL.

- 8.2 It is therefore recommended that the preliminary draft charging schedule is agreed for consultation. If the council wishes to introduce a CIL, it must consult on a draft charging schedule that has been informed by a robust assessment of infrastructure needs and an assessment of the impact of CIL charging on development viability. Both of these criteria have been met in producing the preliminary draft charging schedule attached to this report.

## **9 OTHER OPTIONS CONSIDERED**

- 9.1 Preparation of CIL is not obligatory. However, the funding that the Council can secure from new development under s.106 will be significantly scaled back from 2014. Therefore not producing CIL is not considered appropriate.

## **10 CONSULTATION**

- 10.1 *Cabinet members; LDF Steering Group members; PTE Policy Development and Scrutiny Panel; Staff; Business Stakeholders; Section 151 Finance Officer; Chief Executive; Monitoring Officer*
- 10.2 A cross service officer group has supported the development of CIL and has included officers from Planning Services, Sustainability Team, Building Control, Housing, Property and Development & Major Projects. Briefing sessions with Strategic Directors were undertaken through the evidence gathering stage and the rate testing workshop was undertaken on 12<sup>th</sup> March 2012.
- 10.3 **Development Industry workshop:** Engagement with development industries was undertaken through a stakeholder workshop held on 17<sup>th</sup> October 2011. A report of this event is included as part of the Viability Study.

## **11 ISSUES TO CONSIDER IN REACHING THE DECISION**

- 11.1 Customer Focus; Sustainability; Human Resources; Property; Impact on Staff; Other Legal Considerations

## **12 ADVICE SOUGHT**



12.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

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<b>Sponsoring Cabinet Member</b>	Cllr Tim Ball  (Cabinet Member for Homes and Planning)
<b>Background papers</b>	<ol style="list-style-type: none"> <li>1. B&amp;NES CIL Viability Study March 2012:             <ol style="list-style-type: none"> <li>a. <a href="#">Report</a></li> <li>b. <a href="#">Appendix 1: Residential Appraisal Results</a></li> <li>c. <a href="#">Appendix 2: Residential Appraisal Results Filtered</a></li> <li>d. <a href="#">Appendix 3: Commercial Appraisals</a></li> <li>e. <a href="#">Appendix 4: Stakeholder Workshop Notes</a></li> </ol> </li> <li>2. <a href="#">B&amp;NES Infrastructure Delivery Programme (IDP)</a></li> <li>3. <a href="#">Cabinet Report, 9<sup>th</sup> November 2011: Delivering Sustainable Economic Growth</a></li> </ol>
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