

Bath & North East Somerset Council

MEETING:	Cabinet	
MEETING DATE:	8th May 2013	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2411
TITLE:	B&NES Community Infrastructure Levy	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Annex 1 - Preliminary Draft Charging Schedule in April 2012 Annex 2 - Key issues arising from the public consultation on the PDCS		

1 THE ISSUE

1.1 This report outlines the next steps required in the preparation of a Community Infrastructure Levy (CIL) for Bath & North East Somerset.

2 RECOMMENDATION

That the Cabinet:

2.1 notes the work required on preparing a draft CIL Charging Schedule as set out in para 5.7 of this report, and

2.2 agrees the revised programme for the preparation of the Bath & North East Somerset Community Infrastructure Levy and the consequential amendment to the Local Development Scheme.

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 growth aspirations as set out in the Core Strategy. It is estimated that CIL could yield around £ 21 million up to 2029. This is the total estimated figure and a proportion of this will be passed to local communities to spend on improvements in their area. The latest Regulations state that the neighbourhood areas (or Parishes) with an adopted Neighbourhood Plan will receive 25% of the CIL collected and the neighbourhood areas (or Parishes) with no adopted Neighbourhood Plan will receive 15% (but capped at £100 / dwelling) (see also para 5.5 in the Report below). This is based on the housing projections by the Strategic Housing Land Availability Assessment (SHLAA), CIL Rate £100 /m² (Rate from the Preliminary Draft Charging Schedule) and 70m² per dwelling. Therefore it is only an indicative figure.

- 3.2 CIL can only be levied if there is a funding gap for infrastructure provision. The Infrastructure Delivery Plan (IDP) 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. This has been updated to reflect the changes to the Core Strategy agreed by Council on 4th March 2013. The IDP is continually being updated and refined and is not a formal investment programme. 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 revenue streams such as New Homes Bonus, the Revolving Infrastructure Fund and HCA funding. New Homes Bonus is currently being used to help support frontline services. It will be vital to consider these issues in more detail as part of the next round of financial planning.
- 3.4 The preparation of CIL was funded by New Growth Point Funding up to 2012/13. From 2013/14, the on-going CIL work will be funded by the Local Development Framework budget.
- 3.5 Alongside setting the CIL charging schedule, work is underway to establish the Local Authority as a CIL Charging Authority. 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.
- 3.6 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 also need to be funded by the Local Development Framework budget during 2013/14.

4 CORPORATE OBJECTIVES

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

5 THE REPORT

Background

- 5.1 The Community Infrastructure Levy was introduced by Government to assist in providing infrastructure arising from new development. This was in part a response to the inadequacies in the way that s.106 planning obligations were being used to fund new infrastructure. The Planning Act 2008 confers the power to charge the CIL on certain bodies known as charging authorities. A local planning authority is the charging authority for its area. The CIL is in effect a tax on new development but it must not be set at a level which causes development to become unviable. The CIL is closely aligned with the Core Strategy which sets out the level of growth being planned for and the associated infrastructure requirement. The B&NES Core Strategy is underpinned by an Infrastructure Development Plan (IDP).

5.2 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 S.106 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. To avoid overlap with s.106, a charging authority must prepare 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**' and covers the provision of new infrastructure rather than remedying existing deficiencies. The scope of what can be provided through s.106 obligations will be reigned back in April 2014 to avoid overlap with CIL as set out in the CIL regulations.

5.3 CIL applies to net increases in floorspace and is charged at a rate per m². 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. Draft Charging Schedules must undergo consultation and be examined 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 CIL is a tax on new development and must not be used as a policy tool such as to encourage or discourage certain forms of development

B&NES CIL

5.4 B&NES published and consulted on a Preliminary Draft Charging Schedule (PDCS) in April last year. The PDCS was underpinned by a development viability assessment. The PDCS is reproduced in Annex 1 for information. Key issues arising from the public consultation are set out in Annex 2.

5.5 Local authorities are required to pass a meaningful proportion of CIL receipts to local neighbourhoods where development takes place. This requires the Council to establish a formal process. According to the latest amendment to the Regulations, the neighbourhood areas (or Parishes) with an adopted Neighbourhood Plan will receive 25% of the CIL collected and the neighbourhood areas (or Parishes) with no adopted Neighbourhood Plan will receive 15% (but capped at £100 / dwelling). However, the Council is encouraging local communities to work in partnership on the Placemaking Plan as a more effective and efficient approach to Neighbourhood Planning. The Council will need to consider this issue in the proportion of CIL funds devolved to local communities.

5.6 The CIL rate also has implications for a number of Council functions and these implications will need to be carefully considered in the preparation of the DCS.

5.7 In light of the above, the key elements of work required in order to prepare a Draft Charging Schedule are;

- **Update the development viability assessment:** The original assessment of development viability was undertaken in Feb. 2012. This needs to be updated taking into account the latest information such as build costs, house sales, and revised affordable housing requirements. The NPPF states that development delivery should not be threatened by the CIL level.
- **Prepare a 'Regulation 123 list':** This will be based on the Infrastructure Delivery Plan (IDP) which underpins the Core Strategy and sets out the

infrastructure requirements that CIL will be spent on. The Regulation 123 list is now required to be examined alongside the CIL. Examination of the Infrastructure spend is a significant change in that the council now has to agree which projects will be funded or partly funded by CIL before the Draft Charging Schedule consultation (although the Reg 123 list can subsequently be revised and updated). Whilst preparatory work can progress, it is unwise to agree the Reg 123 list and DCS prior to receiving the Inspector's report since the scale and location of new development are still subject to examination. The Inspector's report is likely to be received in September/October 2013.

- **Consider charging options**, taking account of the comments received on the PDCS and the updated viability assessment and the implications in particular for office, retail development and the variation in viability across the District.
- **Update the Planning Obligations Supplementary Planning Document (SPD)**: This will need to be done alongside the preparation of the CIL Draft Charging Schedule. The Council will need to demonstrate at examination how CIL and s.106 will operate together.
- **Targeted early Stakeholder engagement** – The business sectors and community groups have expressed particular concerns over the PDCS. Since the Core Strategy supports economic growth, and because of the direct relevance of CIL to the business community, it would be essential to involve the business sector at an early stage.
- Consider the **meaningful proportion** to be given to local communities

Programme

5.8 The current programme envisages the publication of DCS in June/July 2013. However, in light of the issues described above, a revised programme for the preparation of CIL is recommended as set out below. This gives time for the necessary work to be undertaken and ensures alignment with the Core Strategy programme.

Proposed revised programme timetable

Key Stage	Date
Preparation of the DCS alongside the Core Strategy hearings and the Placemaking Plan	Up to Nov 2013
Expected receipt of Inspector's Report on the Core Strategy	Oct 2013
Agree Draft Charging Schedule	Dec 2013
Public Consultation on Draft Charging Schedule	Jan- Feb 2014
The Draft Charging Schedule submitted to the Secretary of State.	April 2014
<i>Draft Charging Schedule examined in public by an independent inspector.</i>	June 2014

<i>The independent examiner's makes recommendations.</i>	Aug 2014
<i>The final version of the document adopted by the council</i>	October 2014

5.9 The impact of this delay means that the CIL will not be adopted until autumn 2014, six months after Planning Obligations are scaled back in April 2014. The financial impact depends on when sites are granted planning permission. It is anticipated in the SHLAA that some major development sites will be granted planning permissions in 2014/15. Therefore, there is some risk of revenue loss due to the revised programme if planning permissions are granted for major developments before the adoption of the CIL. Nevertheless, site specific obligations would continue to be covered by s.106 but there would be some uncertainty for off-site contributions such as school provisions.

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.

7 EQUALITIES

7.1 An EqlA has not been completed at this stage but will be required when the Draft Charging Schedule & Reg 123 List are prepared.

8 RATIONALE

8.1 The CIL delivers additional funding for charging authorities to carry out a wide range of infrastructure projects that support growth and benefit the local community. The levy cannot be expected to pay for all of the infrastructure required, but it is expected to make a significant contribution. 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 April 2014 it will no longer be possible to pool contributions (limited to 5 schemes) gained through s.106 as set out in the CIL regulations, so the council would no longer be able to fund some educational, open space or transport contributions in the way it currently does if it does not introduce CIL.

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 *Ward Councillor; Cabinet members; Parish Council; Town Council; Policy Development and Scrutiny Panel; Other B&NES Services; Service Users; Local*

Residents; Community Interest Groups; Stakeholders/Partners; Other Public Sector Bodies; Section 151 Finance Officer; Chief Executive; Monitoring Officer

11 ISSUES TO CONSIDER IN REACHING THE DECISION

11.1 Social Inclusion; Customer Focus; Sustainability; Property; Corporate; 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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Sponsoring Cabinet Member	<i>Councillor Tim Ball</i>
Background papers	<i>Development Viability Assessment 2012</i> <i>B&NES Core Strategy (as amended March 2013)</i> <i>B&NES Infrastructure Delivery Plan 2013</i>
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