Cabinet Portfolio Holder Report

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Community Infrastructure Levy (CIL): Preliminary Draft Charging Schedule

Purpose of Report

1. The purpose of this report is to:

   (a) agree residential and non-residential CIL rates for inclusion within a Preliminary Draft Charging Schedule, **the residential CIL recommendation is option 2**
   (b) publish the Community Infrastructure Levy Preliminary Draft Charging Schedule (Appendix 1) for public consultation
   (c) agree a draft CIL Instalment Policy for public consultation (within PDCS, Annex 2)
   (d) publish supporting documents (i) draft Regulation 123 List; (ii) Funding Gap Assessment; (iii) Infrastructure Delivery Plan; alongside the public consultation

Background

2. The provision of necessary infrastructure alongside new development has long been recognised as vital to making such development sustainable and acceptable to the community. The Community Infrastructure Levy (CIL) is a tariff which will allow funds to be raised from new developments in the Vale. The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, schools, hospitals and other health and social care facilities, green spaces, park improvements and leisure centres.

3. Section 106 planning obligations will still be used to deliver affordable housing and certain site-specific infrastructure requirements. However, from April 2015, the CIL Regulations[1] severely limit the ability of Section 106 obligations to fund general infrastructure projects. It is important that the council has a CIL in place so that it can help to fund such projects.

4. CIL is not intended to fund all infrastructure, nor is it to replace main stream funding. For instance, matters such as sewage treatment, water supply and electricity supply are financed by customers and infrastructure providers.

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1 The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 122

5. In setting the Levy, legislation[2] requires the council to strike an appropriate balance between the desirability of funding infrastructure to support development and the potential effects of imposing a charge on the economic viability of development as a whole. Therefore, a charge must not be imposed which prevents the delivery of the planned growth.

6. The CIL Regulations[3] allow for different rates to be applied for different types of development or different geographical areas, based on the estimated viability of such development. The setting of different rates for geographical areas needs to be on the basis of viability rather than infrastructure needs, costs or other policy objectives.

7. The Vale is responsible for setting the charge, collecting the money and allocating the money for spend. The rates must be set based on evidence of economic viability of development and on infrastructure need and an associated funding gap. The council's charges will be set out in a Charging Schedule.

8. Before the council can adopt its CIL Charging Schedule it must go through a number of stages which are set out in statute. These include consulting on a Preliminary Draft Charging Schedule (this stage), inviting representations on a Draft Charging Schedule and submitting the Draft Charging Schedule to the Planning Inspectorate for independent examination. The estimated timetable for progressing CIL to adoption is set out below:

Task	Timetable
Pubic consultation on **Preliminary Draft Charging Schedule** (6 weeks)	7 November – 19 December 2014
Preparation of Draft Charging Schedule	December 2014 – January 2015
Pubic consultation on **Draft Charging Schedule** (4 weeks)	February 2015 – March 2015
Submit the Draft Charging Schedule, evidence base reports and any public representations to the independent inspectorate	March 2015
Undergo a public examination of the Draft Charging Schedule	June 2015
Adopt a final Charging Schedule	Autumn 2015

Infrastructure Evidence

9. In the preparation of the Local Plan Part 1 (LPP1) the council has produced an Infrastructure Delivery Plan (IDP) which identifies the future infrastructure and service need of the District for the plan period. CIL regulations[4] require that, in order to justify introducing a CIL, the council must demonstrate that there is a 'gap' between the assessed infrastructure needs of the district and the funding that is available without a CIL. An Infrastructure and Funding Report has been prepared to demonstrate this need. A copy of the report is included as Appendix 3.

2 The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 14
3 The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 13

4 The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 14

Viability Evidence

10. Consultant HDH Planning & Development Ltd has been commissioned to carry out a comprehensive local plan viability study examining the cumulative impact of the policies and requirements in the Local Plan 2031 Part 1. In addition, a CIL Viability Assessment has been undertaken to inform the CIL setting process and assess the effect CIL will have on development viability. The Viability Assessment proposes a set of CIL rates which can be applied to new development without preventing the desired level of growth.

Preliminary Draft Charging Schedule levy rates

Residential rates

11. The viability assessment has tested the ability of strategic sites and modelled smaller sites to support different levels of CIL against a residual land value benchmark. Although the results demonstrate that the majority of sites could support a CIL up to £200/m^2 the CIL Regulations and Guidance[5] advises that Charging Authorities should avoid setting charges up to the margin of viability.

12. The viability assessment has identified that there is evidence to support differentiated residential CIL rate based on geography. Sites in and adjacent to Faringdon, Grove, Wantage could support a CIL of between £85/m^2 and £100/m^2 with all other areas could support a CIL between £120/m^2 and £140/m^2.

13. The testing concluded that the strategic sites of Monks Farm and Crab Hill could not support a CIL as the developable area of the sites (residential/net hectare) is low relative to the gross site area and the value of the land is considerably less than £1m – setting them apart from other sites. It is proposed that these sites have a zero CIL. Both sites will contribute towards infrastructure through S106.

14. While the CIL Regulations and Guidance advise of the importance of not setting the CIL rates up to the margin of viability there is no prescribed discount or viability cushion that should be applied to CIL rates. However, as more authorities progress to CIL examination, Examiner's Reports provide additional insight. Of particular interest is the Examiner's Report[6] for the Greater Norwich Development Partnership which highlights: "The need for a substantial 'cushion' is particularly important on Greenfield sites where, as the Harman advice notes[7], prospective sellers are often making a once in a lifetime decision and are rarely distressed or forced sellers. Although there are no defined 'tests' to demonstrate the suitability of a viability cushion, CIL Examinations including the Greater Norwich Examination examined by Keith Holland, have indentified guidance and good practice. The Greater Norwich Examination provides guidance that CIL rates which are less than 25% of residual value are an indication of the appropriateness of the rates. Additionally, it has been advised by our viability consultant that CIL rates

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[5] NPPG Paragraph: 019 Reference ID: 25-019-20140612
[6] Planning Inspectorate report to the Greater Norwich Development Partnership – for Broadland District Council, Norwich City Council and South Norfolk Council.
[7] Viability Testing Local Plans Advice for planning practitioners, Local Housing Delivery Group Chaired by Sir John Harman

which are less than 3% of Gross Development Value (GDV) are another indication of appropriateness.

15. It is necessary for the council to establish its CIL rate(s) within the context of CIL viability. The CIL Regulation requires that in setting its CIL rate the council must: ***"strike an appropriate balance between meeting all or part of the infrastructure funding gap; and; the potential impact of CIL upon the economic viability of development across its area."*** We are seeking to find a balance between the funding of infrastructure and risking the delivery of development. To assess how CIL will help fund infrastructure, a CIL income projection model has been developed to estimate CIL income. The model allows CIL rates to be modelled against planned residential development from the emerging Local Plan Part 1. Following on from the two Cabinet Member Rate Setting Workshops, three residential CIL options have been derived and are presented below. Each option includes an estimated CIL income over the plan period. The CIL income is then shown as a percentage of the total cost of infrastructure required to deliver the emerging Local Plan (taken from the Infrastructure Delivery Plan), and what the remaining funding gap is once CIL and other sources of infrastructure funding have been deducted (shown as a residual funding gap).

Option One – Single rate

16. The first option would see a single residential CIL rate set at £100/m^2 If a single rate is set, this would be the maximum recommended single rate to apply to all residential development excluding Monks Farm and Crab Hill. While providing a simple charging schedule in keeping with guidance on CIL, and the most defendable position at Examination it does generates the least income of the three options.

CIL Income	
Total estimated CIL income over the LPP1 plan period	£64,590,350
Funding Gap	
Total essential Infrastructure required to deliver the LPP1 (as identified from the Infrastructure Delivery Plan)	£392,412,457
Non CIL sources (including grants and S106)	£194,713,275
Funding gap (costed infrastructure – non CIL sources)	£197,699,182
CIL income as a proportion of total infrastructure	16%
Residual funding gap (funding gap – CIL income)	£133,108,832

17. Key points to note:

    a. Would achieve approximately £64m over the plan period to 2031.
    b. Account for approximately 16% of all the total infrastructure funding.
    c. Would be the maximum recommended single rate to apply to all residential development excluding Monks Farm and Crab Hill.
    d. Less than 25% of residual value on all sites – recognised as an indication of appropriateness of rates
    e. Less than 3% of Gross Development Value (GDV) – recognised as an indication of appropriateness of rates
    f. Considered a defendable position at examination, does not require the creation and defending at Examination of CIL boundaries.
    g. This option is **not recommended.**

Option Two – Differential rates (£120/m2 and £85/m2)

18. The second option would see a district wide rate of £120/m^2 and Faringdon, Wantage and Grove rate of £85/m^2. The option is considered a moderate option in terms of both seeking to maximize CIL income through differential CIL rates while maintaining a viability 'cushion' and demonstrating plan delivery.

CIL Income	
Total estimated CIL income over the LPP1 plan period	£78,529,910
Funding Gap	
Total essential Infrastructure required to deliver the LPP1(as identified from the Infrastructure Delivery Plan)	£392,412,457
Non CIL sources (including grants and S106)	£194,713,275
Funding gap (costed infrastructure – non CIL sources)	£197,699,182
CIL income as a proportion of total infrastructure	20%
Residual funding gap (funding gap – CIL income)	£119,169,272

Note: the £85 rate accounts for £841,811 of the income total

19. Key points to note:

    a. Would achieve approximately £78m over the plan period to 2031.
    b. Account for approximately 20% of all the total infrastructure funding
    c. Rates remains less than 25% of residual value – recognised as an indication of appropriateness of rates
    d. Majority of sites below or at 3% of Gross Development Value (GDV) – recognised as an indication of appropriateness of rates
    e. This option **is recommended**.

Option Three – Differential rates (£140/m2 and £100/m2)

20. The third option would see a district wide rate of £140/m^2 and Faringdon, Wantage and Grove rate of £100/m^2. The option would result in the highest CIL income but there are risks associated with setting rates with a reduced viability cushion and challenges demonstrating that the rates will put the delivery of the plan at risk.

CIL Income	
Total estimated CIL income over the LPP1 plan period	£91,626,481
Funding Gap	
Total essential Infrastructure required to deliver the LPP1 (as identified from the Infrastructure Delivery Plan)	£392,412,457
Non CIL sources (including grants and S106)	£194,713,275
Funding gap (costed infrastructure – non CIL sources)	£197,699,182
CIL income as a proportion of total infrastructure	23%
Residual funding gap (funding gap – CIL income)	£106,072,702

Note: the £100 rate accounts for £990,366 of the income total

21. Key points to note:

    a. Would achieve approximately £91m over the plan period to 2031, the highest of the three residential CIL options.

b. Account for approximately 23% of all the total infrastructure funding.
c. Some sites at £140/m^2 are above 25% of residual value (incl. Valley Park 25.99%, North Abingdon 25.99%) – recognised as an indication of appropriateness of rates
d. Sites at £140/m^2 above 3% of Gross Development Value (GDV) – recognised as an indication of appropriateness of rates
e. Considered the most challenging position at examination of the three options.
f. This option is **not recommended.**

Residential CIL recommendation

22. Option 2 is considered the most appropriate and is recommended. While option 3 would generate higher CIL income it does so with the risk of undermining local plan delivery. Option 2 provides an appropriate balance between the need for CIL to help meet the infrastructure funding gap while not risking the delivery of the Local Plan development, it is considered a defendable position at Examination.

23. Option 2 requires the establishment of CIL boundaries, it will be necessary for the Preliminary Draft Charging Schedule (PDCS) to include a CIL map to show the three residential CIL charging zones (£0/m^2, £120/m^2, £85/m^2). The boundaries are proposed to be drawn as follows:

    a. £0/m^2 rate be drawn to include the strategic sites of Crab Hill and Monks Farms as defined by the LPP1;
    b. £85/m^2 rate be drawn to include the settlements of Faringdon, Grove and Wantage and will include associated strategic sites within these areas; and,
    c. all other areas within the district be subject to the £120/m^2 CIL rate.

Non-residential rates

24. In addition to a residential viability assessment, separate assessments of the viability of and non-residential development in the District have been undertaken, using different models that take into account different uses. Unlike the residential assessment, this assessment demonstrates that there is no viability evidence to support differential rates and therefore non-residential rates apply district wide.

25. When supported by evidence, the CIL Regulations allow for differentiation between types of development within a use class. Although the assessment has shown that town centre retail cannot support a CIL, supermarkets and retail warehousing can support a rate of £100/m2. A differential rate for supermarkets and discounted retail is increasingly common within CIL due to the clear differences in development assumptions and viability.

26. In the current market business uses (including offices, industrial and distribution) were found not to be able to support a CIL in the short or medium term, this is not uncommon with many other charging authorities. Where appropriate such uses will contribute towards infrastructure through S106. There are many other types of uses which may get developed over the plan period, including agriculture, community use, surgeries, day nurseries, hospitals, cinemas, leisure centres, petrol stations etc. For the most part

such uses do not in produce revenue which outweighs the costs at a level which would enable a CIL to be included whilst the schemes remain viable, this is because they are often not built to generate profit, but to facilitate a service. Such uses may warrant further analysis in a later CIL charging review.

27. The table below sets out the CIL rates proposed for inclusion in the Preliminary Draft Charging Schedule:

Development type	**CIL Rate (per square metre of chargeable floorspace)**		
Residential (C3 and C4)	Zone 1	Zone 2 (Faringdon, Grove and Wantage)	Zone 3 (Crab Hill and Monks Farm)
	£120	£85	£0
Development type	**District Wide**		
Supermarkets and retail warehousing (A1) exceeding 280m2 (gross internal area)	£100		

Note - Supermarkets: are large stores selling mainly food or non-food goods. Retail warehouses: are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. Retail warehouses and supermarkets exceeding 280m2 are classified as larger stores under the Sunday Trading Act 1994.

Payment and collection

28. CIL will be calculated in accordance with the CIL Regulations and becomes due for payment upon commencement of the development. However, the Regulations[8] permit a Charging Authority to introduce a series of discretionary policies including an instalment policy; a payment in kind policy which involves the payment of part of the CIL requirement in the form of one or more land payments; and, an exceptional circumstances relief policy which further extend the statutory relief from the payment of CIL. Such policies are at the discretion of the charging authority and do not form part of the Charging Schedule Examination.

29. Although outside of the remit of the Examination, most charging authorities produce an instalment policy for consultation and invite representations on it at either the PDCS or Draft Charging Schedule stage. Officers recommend we should invite comments on a draft instalment policy at this stage, and use the draft instalment policy identified in Appendix 1, Annex 2 as the basis for this consultation.

[8] The Community Infrastructure Levy Regulations 2010 (as amended) Regulations 56 / 69 /74

Other Options

30. The council could choose not to prepare a CIL but given the need to fund infrastructure to support the planned level of development there is considered to be little justification to pursue such an option. The National Planning Policy Framework (NPPF) emphasises the interconnection between CIL and the Local Plan, specifically the role of CIL to support the planned development set out in the Local Plan.

Financial implications

31. Funding for the preparation of CIL will be met through existing budgets. The Regulations[9] allow for up to five per cent of CIL collected each year to be spent on the administration of CIL, including any expenses incurred before the charging schedule was published.

Legal implications

32. Once adopted CIL is a mandatory cost of development. Proposed collection and governance arrangements including the management and implementation of CIL will be subject to a separate report.

Conclusion/ recommendation

33. A viability assessment has justified a series of CIL rates. Non-residential CIL rates as set out in paragraph 25, and residential CIL rates option 2, are recommended for public consultation within a Preliminary Draft Charging Schedule (PDCS).

34. It is recommended that the draft instalment policy be published for comment as part of public consultation on the PDCS.

Appendices
Appendix 1 – Preliminary Draft Charging Schedule (including Instalment Policy)
Appendix 2 – Regulation 123 List
Appendix 3 - Infrastructure and Funding Report

[9] The Community Infrastructure Levy Regulations 2010 (as amended) Regulation 67