

# CHESHIRE EAST COUNCIL

## Cabinet

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<b>Date of Meeting:</b>	9 <sup>th</sup> February 2016
<b>Report of:</b>	Executive Director of Growth & Prosperity
<b>Subject/Title:</b>	Progressing the Community Infrastructure Levy (CIL)
<b>Portfolio Holder:</b>	Cllr Rachel Bailey, Children and Families

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### 1.0 Report Summary

- 1.1 As the growth agenda gathers pace and the scale of new development expands across the Borough, so the need to fund critical infrastructure becomes paramount.
- 1.2 New development impacts not only on 'hard' infrastructure – the civil engineering of roads, drains and footpaths directly linked to construction – but much more widely on 'soft' infrastructure – the key community facilities of education, transport, waste management, health and social care that are essential to every successful settlement.
- 1.3 The permissive planning regime brought in by the NPPF combined with changes in legislation (have made the coordination of infrastructure funding and the operation funding infrastructure under the current system of s.106 agreements much more difficult.
- 1.4 The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development in their area. CIL came into force in April 2010 under the Community Infrastructure Regulations 2010 (CIL Regs). The production and approval of a CIL Charging Schedule setting out the CIL rates for an area is required before CIL can be implemented.
- 1.5 The CIL Regs seek to ensure that local use of the Levy and planning obligations under s106 of the Town and Country Planning Act 1990 (1990 Act) do not overlap. The role of s106 planning obligations has become limited to specific impacts of development that cannot be funded under CIL, for example on-site Open Space.
- 1.6 Accordingly its apparent that the Council must act now to meet the challenge of future infrastructure provision. Progress with the Local Plan

now enables the Council to press ahead with the preparation and approval of a CIL Charging Schedule with greater confidence.

- 1.7 This report therefore requests that Cabinet agrees to the undertaking of all work necessary to prepare a CIL Charging Schedule for the local planning authority area administered by Cheshire East Council. Further reports will be necessary following the carrying out of preparatory work.

## **2.0 Recommendations**

- 2.1 To endorse the undertaking of all work necessary for the preparation and approval of a CIL Charging Schedule for the local planning authority area administered by Cheshire East Council.
- 2.2 To devise a detailed implementation plan and programme to set out the principal stages for the preparation of CIL. This will include the opportunity to re-appraise our approach in the light of the outcomes of the Government Review of CIL.

## **3.0 Reasons for Recommendations**

- 3.1 The Council is now sufficiently advanced in the preparation of its Local Plan Strategy (LPS) for it to introduce a CIL Charging Schedule to help deliver the infrastructure needed to support the development proposals identified in the LPS and its accompanying Infrastructure Delivery Plan.
- 3.2 Given the detailed stages involved in devising and finalising a CIL it will be necessary to draw up a detailed project plan, taking account of arrangements for governance, scrutiny and review. This should also allow for the conclusions of the Government Review of CIL (see 11.1 below) to be considered and acted upon.

## **4.0 Wards Affected**

- 4.1 All wards

## **5.0 Local Ward Members**

- 5.1 All Members

## **6.0 Policy Implications**

- 6.1 The Local Plan is a key component of the Council's policy framework and sets out a vision for how the Borough will grow sustainably to 2030. An important component of achieving vibrant sustainable communities is the need to ensure that any growth is supported by the provision of the economic, social and environmental infrastructure necessary to bring this about. The timely introduction of a CIL Charging Schedule will help enable this to happen.

## **7.0 Implications for Rural Communities**

- 7.1 The introduction of CIL will help provide funding for infrastructure in rural communities as identified in either the Site allocations DPD or Neighbourhood Plans or as a result of impact from developments. Town and Parish Councils will directly receive some of the CIL receipts resulting from development in their area.

## **8.0 Financial Implications**

- 8.1 The cost of the introducing CIL will be additional to current budgets. It is estimated that an additional £50,000 will be required to cover the initial phases, additional to officer time. This will principally cover the costs of preparing the charging schedule, providing additional supporting evidence and funding the Examination. A detailed cost proposal will be drawn up following the completion of the revised tender exercise (see 11.7 below). As this is a 'one off' cost to meet a particular opportunity it is suggested that this be met from Reserves. Further costs will ultimately be incurred in the administration and collection of CIL, but these can be recovered through the charge itself.
- 8.2 More significantly however is the potential long term financial benefit for the Council. CIL is applied more broadly than the current s.106 system and it is levied per square metre of development. Accordingly there is the opportunity to spread the burden of infrastructure costs more widely and equitably. Ultimately this should result in a greater scale of contributions being accrued than at present and should create a better and more certain funding regime for essential facilities. At the present time approximately 20% of homes completed in the Borough are built on small sites, below the threshold for section 106 obligations. If the charge is applied comprehensively, there is the potential for the cost of establishing CIL to be recovered within the first year of full operation.
- 8.3 Under the Regulations 15% of CIL contributions are required to be spent locally within the relevant town or parish, subject to certain limitations. Where a Neighbourhood Plan is in place this rises to 25%.

## **9.0 Legal Implications**

- 9.1 The implementation of CIL is governed by the Community Infrastructure Regulations 2010.

## **10.0 Risk Management**

- 10.1 The Council must balance the need to secure better infrastructure provision with the risk that abortive work will be undertaken ahead of the completion of the Local Plan process. As far as possible the two processes should be run in tandem to mitigate this risk.

## **11.0 Background and Options**

### The Need For Infrastructure Provision

- 11.1 All new development has implications for infrastructure. The direct implications – in terms of roads, transportation and utility provision are often very apparent. Less obvious, but just as keenly felt, are the implications for the wider social fabric of the neighbouring community – the additional pressure placed on health , education and caring facilities. Collectively the Council needs to mitigate the impacts of new development through the planning process, where and when they occur.
- 11.2 The Cheshire East Local plan Strategy proposes that 36,000 new homes be built in the borough over the period 2010 – 2030. Thus far only 3,500 or so of these dwellings have been completed – signalling that the major impacts of new growth are yet to be felt. Accordingly the need for new infrastructure, of all kinds, will ramp up over the coming decade.

### The Current Infrastructure Challenge.

- 11.3 The presumption in favour of sustainable development brought in by the NPPF has prompted a sharp rise in planning applications outside areas allocated for development. Large greenfield sites on the outskirts of towns and villages in the south and centre of Cheshire East have been released for housing ahead of any designation in the development plan. The scale of this unplanned development has undermined the effective coordination of infrastructure provision in these localities. Whilst individually each development may be seen to meet its own limited obligations, there is an erosion of strategic oversight in the construction of key infrastructure.
- 11.4 This situation is further exacerbated by the impact of the CIL Regulations (regulation 123) which limit the pooling of contributions from s.106 agreements. This regulation, effective since April 2015, means that no more than 5 obligations can be pooled for any given infrastructure project. This makes the provision of major schemes (e.g road improvements, secondary schools etc) much harder to fund. In addition further restrictions under Regulation 122 have proved problematic in securing contributions against generic objectives (notably health services) where the detailed end project is not always known and therefore cannot satisfy the Regulation.
- 11.5 Against this conflict, there is a growing case to implement CIL in Cheshire East as soon as we are able.

### The Process of Securing CIL

- 11.6 The purpose of CIL is to raise money to help pay for the Infrastructure needed to support new development. The Council, as the local planning authority, has the power to set a CIL charge based on the net additional

(internal) increase in floor space resulting from development. The charge is made on a per square metre basis. Rates can vary by geographical area, use, or scale (or a combination of these) and is due when development starts.

11.7 In order for the Council to set a CIL charge it must demonstrate that it understands:

- the type and scale of the new infrastructure that is required;
- The extent of the financial shortfall that will exist in meeting these infrastructure costs once normal sources of infrastructure funding are taken into account i.e. the size of the infrastructure gap which CIL will help to bridge
- The general implications for development viability in the area should CIL be introduced
- How CIL will operate alongside S106 obligations, which will continue to play a part in funding but on a more limited basis once CIL is introduced.

#### The Estimated Timing & Timescales for Establishing CIL

11.8 The principal consideration around deciding when is the optimum time to begin work on introducing a CIL charge must be based on how confident the Council is in its understanding of future infrastructure requirements in the Borough. This will be driven by progress on the preparation of the Local Plan, as this sets out the overall levels of growth, how it will be distributed and the infrastructure needed to support development.

11.9 The favourable Further Interim Views received from the Inspector on 11 December 2015 now provide a clear basis for further progress on the Local Plan. However early progression of CIL must balance the need to ensure that the Council captures appropriate contributions for infrastructure provision from developers before the strategic sites allocated in the Local Plan are granted planning permission, against the risk that until the Local Plan Strategy is adopted changes may occur which will have a knock on impact for CIL.

11.10 In addition, it should be noted that the Government has established an independent group to review CIL. The group will assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, as well as recommend changes that would improve its operation in support of the government's wider housing and growth objectives. It is due to report in April 2016. The Council will need to keep its approach to CIL under review in the light of any findings.

## Implementing CIL

11.11 The steps required to set the CIL charge with approximate timings are shown in the table below:

<b>Steps to Setting the CIL Charge</b>	<b>Approximate Timeline (Months)</b>
Review and update the existing evidence on viability and the infrastructure needed to support the development proposals	4
Prepare preliminary draft charging schedule and get formal sign off	1
Undertake public consultation on preliminary draft charging schedule	1
Review comments and provide further or amended evidence, if necessary.	1
Prepare draft charging schedule and get formal sign off	2
Undertake public consultation on draft charging schedule	1
Consolidate evidence and responses and prepare for submission to Examiner	1
Examination	0.5
Adoption	3

11.12 Establishing CIL will involve a considerable amount of officer time and is likely to take between 12 and 18 months to become operational from our current position. Early consideration needs to be given to establishing the necessary internal systems and procedures needed to operate CIL to help minimise the time it takes for the Council to implement a CIL charge once the rates have been approved. This will include the need to procure CIL administrative software and agree operating responsibilities and protocols (e.g. for calculating all levies, surcharges and receipts; issuing liability and demand notices; and updating systems to take account of amended planning permissions – as this may alter the CIL charge on issued liabilities).

11.13 Establishing CIL will also require appropriate Member input and the governance mechanism for achieving this will need to be agreed. This will include determining:

- the Regulation 123 list (the requirement for a published list of infrastructure projects or types that we intend will be funded by CIL) as part of establishing a CIL charge;
- which section of the Council will have overall responsibility for operating CIL (the planning, finance and legal sections will all need to input); and
- The mechanism for deciding how CIL monies should be monitored and spent once the CIL charge is introduced

## **12.0 Access to Information**

12.0 The background papers relating to this report can be inspected by contacting the report writer:

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