

# Cheshire East Council

## Portfolio Holder for Housing and Planning

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<b>Date of Meeting:</b>	>	20 <sup>th</sup> February 2017
<b>Report of:</b>	>	Director of Planning and Sustainable Development
<b>Subject/Title:</b>	>	Community Infrastructure Levy, Progress Update and approval to consult on Preliminary Draft Charging Schedule
<b>Portfolio Holder:</b>	>	Cllr Ainsley Arnold, Housing and Planning

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### 1. Report Summary

- 1.1. This report outlines the latest position in developing the Community Infrastructure Levy ("CIL") Charging Schedule and work undertaken by consultants, Keppie Massie, concerning the potential for introducing a CIL charge within Cheshire East. It also seeks Member endorsement to consult the public for six weeks on the CIL: Preliminary Draft Charging Schedule and initial Draft Regulation 123 list.
- 1.2. The consultation on the Preliminary Draft Charging Schedule is the first of two consultations on a potential CIL charge for Cheshire East, to be followed by an Examination in Public expected towards the end of 2017.
- 1.3. The Preliminary Draft Charging Schedule represents the starting position of the Council in establishing a formal CIL Charge in the Borough formed by 'appropriate and available evidence' in the terms set out in Section 211 (7a) of the Planning Act 2008. The importance of consultation and ongoing engagement is recognised at this early stage in the development of establishing a robust position to support a future CIL Charging Schedule in Cheshire East.
- 1.4. The Council recognises the importance of 'quality of place' in contributing to the economic wellbeing of an area and positively influencing and encouraging investment and jobs growth in the Borough.
- 1.5. The Local Plan Strategy will be a key vehicle in achieving this key Council objective, supported by the appropriate and timely provision of infrastructure.
- 1.6. The Community Infrastructure Levy will support infrastructure delivery and the intentions of the Local Plan Strategy, in driving quality of place whilst striking an appropriate balance between the level of CIL charge and economic viability to support continued investment in the Borough.

## **2. Recommendation**

- 2.1. To endorse the CIL Preliminary Draft Charging Schedule and initial Draft Regulation 123 list (appendix A and B) for a six week public consultation.
- 2.2. To note the initial viability and infrastructure evidence (appendices C and D) supporting the consultation on the Preliminary Draft Charging Schedule.
- 2.3. To note that services have commenced the necessary business changes required to be in a position, to collect, operate, enforce and distribute the CIL levy on adoption.

## **3. Other Options Considered**

- 3.1. Cabinet considered a report on the 9<sup>th</sup> February 2016 and resolved to undertake all the work necessary for the preparation and approval of a CIL Charging Schedule for the Local Planning Authority area administered by Cheshire East Council alongside the drafting of a detailed implementation Plan. Therefore, alternative options were considered at that stage.
- 3.2. The implementation of a future CIL Charge will require business change activity prior to adoption, at risk of any abortive work, to allow the work required to collect, operate, enforce and distribute the Levy.

## **4. Reasons for Recommendation**

- 4.1. To allow the CIL Preliminary Draft Charging Schedule, the initial draft 'Regulation 123' list and supporting evidence to be published for consultation purposes in order to progress the introduction of a CIL Charging Schedule for Cheshire East.

## **5. Background/Chronology**

- 5.1. On 9<sup>th</sup> February 2016, Cabinet considered a report on Community Infrastructure Levy ("CIL") and resolved to prepare and implement a CIL Charging Schedule for Cheshire East.
- 5.2. CIL, once adopted, will support the phased and co-ordinated delivery of infrastructure to support the achievement of sustainable development as set out in the Local Plan Strategy and support the ambitions of quality of place – a key Council objective.
- 5.3. CIL regulations set out a detailed process which Councils must follow to establish an adopted CIL charge. This includes two rounds of public consultation and an independent examination. The key requirements for being successful in establishing a CIL charge are firstly, to have recent evidence on local development markets and infrastructure requirements and secondly, to strike an appropriate balance between the level of CIL charge and its potential effects on economic viability. Understanding the

relationship between CIL and section 106 legal obligations is also important.

5.4. The key outputs to be considered at a future CIL examination include:

- Up to date evidence relating to viability and infrastructure need;
- A draft Charging Schedule based on evidence and the consideration of comments made during public consultation;
- An agreed Regulation 123 list of the infrastructure projects or types that are intended to be funded by CIL;
- Guidance on how the Council intends the relationship between CIL and S106 planning obligations to work;
- Production of Council statements and evidence.

5.5. As noted above, the introduction of a CIL Charging Schedule involves two stages of public consultation followed by an independent examination. If the schedule is found to be sound (i.e. based on reliable, relevant information), and provided that the development plan (in this case the Local Plan Strategy) is up to date, it can be adopted and used from that point. The anticipated timescale leading up to the adoption of CIL is as follows (subject to progress on the adoption of the Local Plan Strategy):-

<b>Task</b>	<b>Indicative Timetable</b>
Round of consultation on a Preliminary Draft Charging Schedule (6 weeks)	Quarter 1 2017
Round of consultation on a Draft Charging Schedule (6 weeks)	Quarter 3 2017
Examination Hearings	Quarter 4 2017
Adoption	Quarter 1 2018

5.6. The Local Plan Strategy proposes that 36,000 new homes will be built in the Borough over the period 2010-2030. Once adopted, a number of Local Plan Strategy sites will be brought forward;

- To the north of the Borough, sites in the Local Plan Strategy will be brought forward that are removed from Green Belt following the adoption of the Plan.
- Local Plan Strategy sites to the south of the Borough, that have not already been developed, will be brought forward as a consequence

of the further certainty provided by the adoption of the Local Plan Strategy.

- 5.7. It is important that CIL is adopted in an efficient timescale in order to support the infrastructure 'ask' of the Local Plan Strategy. The level of CIL Charge will strike an appropriate balance between a number of factors including the importance of achieving quality of place ambitions, the potential effects on economic viability in supporting site delivery and achieving a consistent five year supply of housing in the Borough over the Local Plan Strategy Plan period.
- 5.8. The relationship between CIL and planning obligations (such as Section 106 agreements) are explained in the Planning Practice Guidance where it notes that it is possible that site specific mitigation may still be necessary subject to certain limits, namely:
- The application of the statutory test with respect to planning obligations (regulation 122) namely - necessary to make the development acceptable in planning terms, directly relevant to the development and fairly and reasonably related in scale and kind;
  - Ensuring no overlap between CIL and Planning Obligations;
  - Imposing a 5 limit pooled contribution from planning obligations towards infrastructure that may be funded by the levy (regulation 123). This regulation, effective since April 2015, means that no more than 5 planning obligations can be pooled for any given infrastructure project. This makes the provision of major schemes (e.g road improvements) much harder to fund. The limit of 5 pooled contributions applies only to projects (or project types) not specified in the Regulation 123 list, if such a project (or project type) is identified in the Regulation 123 list then no S106 contributions may be collected toward it once CIL is adopted.
- 5.9. A Preliminary Draft Charging Schedule is a document which sets out the Charging Authority's initial proposals for CIL, for public consultation. The Council and its consultants must take into account the comments it receives when firming up its proposals in the form of the draft CIL Charging Schedule. A Draft Charging Schedule is then prepared, consulted upon and goes forward for examination.
- 5.10. Initial viability work to support the establishment of CIL in Cheshire East has now been prepared. This has entailed:
- gaining a understanding of the infrastructure funding 'gap' in Cheshire East to evidence a case for a future CIL Charge (set out in appendix D) Information on the funding 'gap' is set out in the Infrastructure Delivery Plan (July 2016 update) which supports the development proposals set out in the emerging Local Plan Strategy;

- preparing a draft viability report to understand the level of CIL that might be introduced having regard to development costs and market intelligence (set out in appendix C);
  - preparing a Preliminary Draft Charging Schedule and initial draft Regulation 123 list for consultation (set out in appendices A and B).
- 5.11. The Preliminary Draft Charging Schedule should go beyond broad proposals for the levy. It should be based on evidence about the infrastructure needs of the area and the ability of development in that area to fund that infrastructure in whole or in part. Providing sufficient detail at the Preliminary Draft Charging Schedule stage will reduce the need for later amendments.
- 5.12. Consultants Keppie Massie has been appointed to prepare economic viability work in accordance with the CIL regulations and Government guidance. This provides the basis for developing a CIL Charging Schedule for the Borough. Consultants, Keppie Massie have very recent experience of CIL examinations, for example at Cheshire West and Chester, where they have been asked to undertake some more viability work, on behalf of the Cheshire West and Chester CIL examiner. As experienced consultants of CIL examinations, Keppie Massie would be able to bring to bear any learning in a Cheshire East context. The outcomes of their initial viability work are set out in appendix C.
- 5.13. It is good practice for the Council to also publish its initial draft Regulation 123 list of infrastructure items that CIL is expected to fund in order to provide clarity about the extent of the financial burden that developments will be expected to bear so that viability can be robustly assessed. The list now forms part of the 'appropriate available evidence' for consideration at a future CIL examination and as set out in appendix B. Appendix B will be published prior to the Portfolio Meeting on the 20<sup>th</sup> February 2017.
- 5.14. The initial draft Regulation 123 list has been prepared in consultation with partners both internally and externally to the Council to deliver proposals contained within the Infrastructure Plan associated with the emerging Local Plan Strategy. A CIL Implementation Group with officer representatives from Development Management, Finance, Civicance, Highways, Education, Health and Adult services, Communities, Recreation and Green Infrastructure / Open Spaces have informed the draft Regulation 123 list. In addition, consultation with representatives from Clinical Commissioning Groups and NHS Property Services regarding the health elements of the Regulation 123 list has also informed the Council's initial position. Clinical Commissioning Groups are seeking approval for the position set out in appendix B (which will be published prior to the meeting) and will look to confirm their approach during the initial consultation on the Preliminary Draft Charging Schedule consultation.
- 5.15. Guidance in preparing a future CIL charge notes that Charging Authorities should seek early engagement with representatives of the local

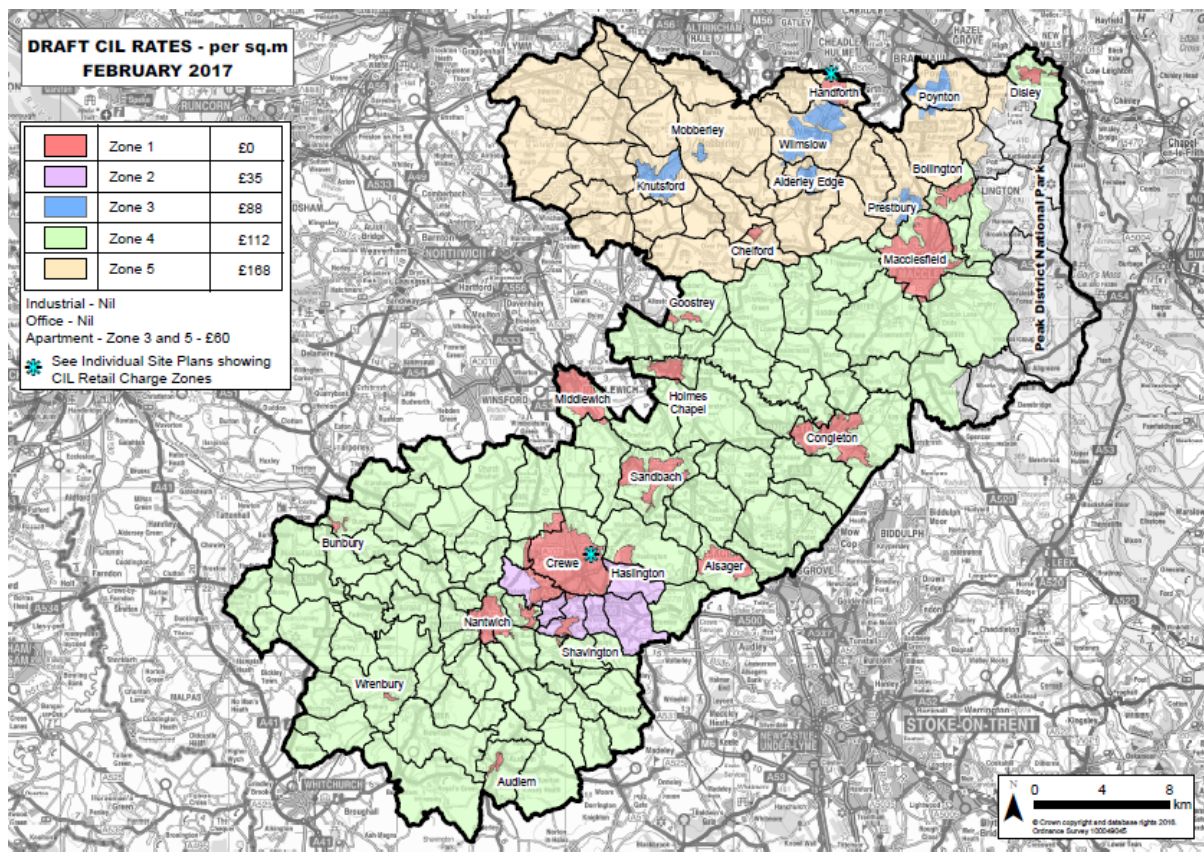
development industry and wider stakeholders. To that end, a workshop was held on the 27<sup>th</sup> September 2016 with representatives of the Council's Housing Market Partnership and other development representatives. Consultants Keppie Massie presented the early methodology and assumptions used to establish a future CIL charge. This was followed by a period for when comments could be received on the methodology to be employed.

- 5.16. Officers and its consultants, Keppie Massie, recognise the need for early and ongoing engagement regarding the CIL Charges proposed. To that end, the Preliminary Draft Charging Schedule and associated viability evidence sets out a starting position for the Council in line with the CIL regulations.
- 5.17. The Preliminary Draft Charging Schedule consultation stage represents a starting position of the Council as part of an ongoing 'conversation' on CIL and the Council is expected to receive through the consultation 'appropriate and available' evidence from the development industry and other stakeholders to test the initial position set out in the Preliminary Draft Charging Schedule. This will ensure the most appropriate and robust CIL Charging Position is achieved, which delivers the Council's objectives, at Draft CIL Charging stage prior to examination.
- 5.18. The Planning Practice Guidance ("PPG") at Paragraph 19 (ID: 25-019-20140612) is clear that viability testing should "focus on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy is likely to be most significant." The PPG acknowledges that the viability testing of Strategic Sites will be dependent on support from local developers. Given the number of strategic sites contained within the Council's Local Plan Strategy it is imperative that the viability of an appropriate sample of Strategic Sites are tested going forward to ensure that any proposed CIL charges can be supported. This point is acknowledged within the work of Keppie Massie, and the viability of Strategic Sites will be considered within the Draft Charging Schedule Viability Assessment. It is hoped that Local Developers and other Stakeholders will feed into this process through the consultation on the Preliminary Draft Charging Schedule and make available appropriate evidence so that the viability of these sites can be considered in greater detail
- 5.19. The Keppie Massie report in appendix C provides a brief summary on CIL and the associated Planning Policy context. It sets out the methodology and evidence to support the conclusions made regarding the prospects for the introduction of a Community Infrastructure Levy in Cheshire East.
- 5.20. The report also sets out conclusions in respect of the prospects for the introduction of CIL in Cheshire East. There are significant differences in the values, costs and hence viability of residential and non-residential developments.

5.21. For residential development, there is evidence for a CIL charge on the basis of a varying CIL charge across the Borough. In addition, the results indicate differences between brownfield and greenfield development. The figures in the following table set out the maximum CIL rates that could be supported in the following locations in Cheshire East:

Residential Rates		Zone Description	Residential Rates Proposed Per Sqm
Residential (use Class C3)	Zone 1	Built up areas of Crewe, Macclesfield, Alsager, Congleton, Handforth, Middlewich, Nantwich, Sandbach, Audlem, Bollington, Bunbury, Chelford, Disley, Goostrey, Haslington, Holmes Chapel, Shavington and Wrenbury	£0
	Zone 2	Crewe Rural Hinterland	£35
	Zone 3	Built up areas of Knutsford, Alderley Edge, Mobberley, Prestbury, Poynton and Wilmslow	£88
	Zone 4	Greenfield areas to the south and central areas of Cheshire East	£112
	Zone 5	Greenfield areas to the north of the Borough	£168
Apartments (use Class C3)	Zone 3 and 5	Built up and Greenfield Areas to the north of the Borough	£60

5.22. A map showing the areas where a proposed CIL charge applies for residential development is set out below:

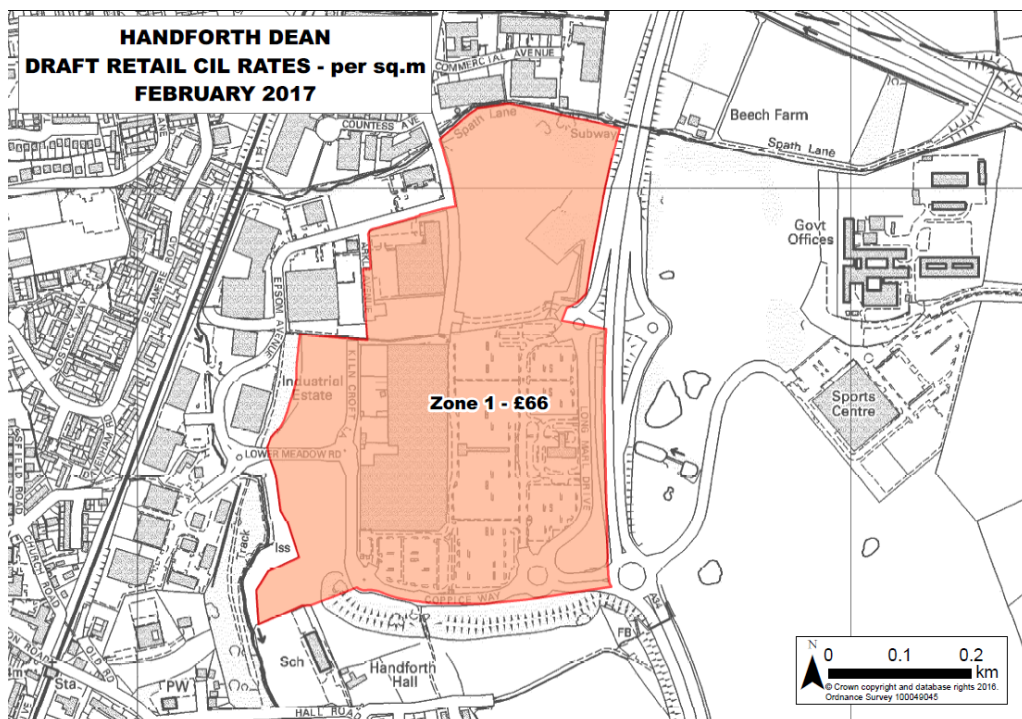
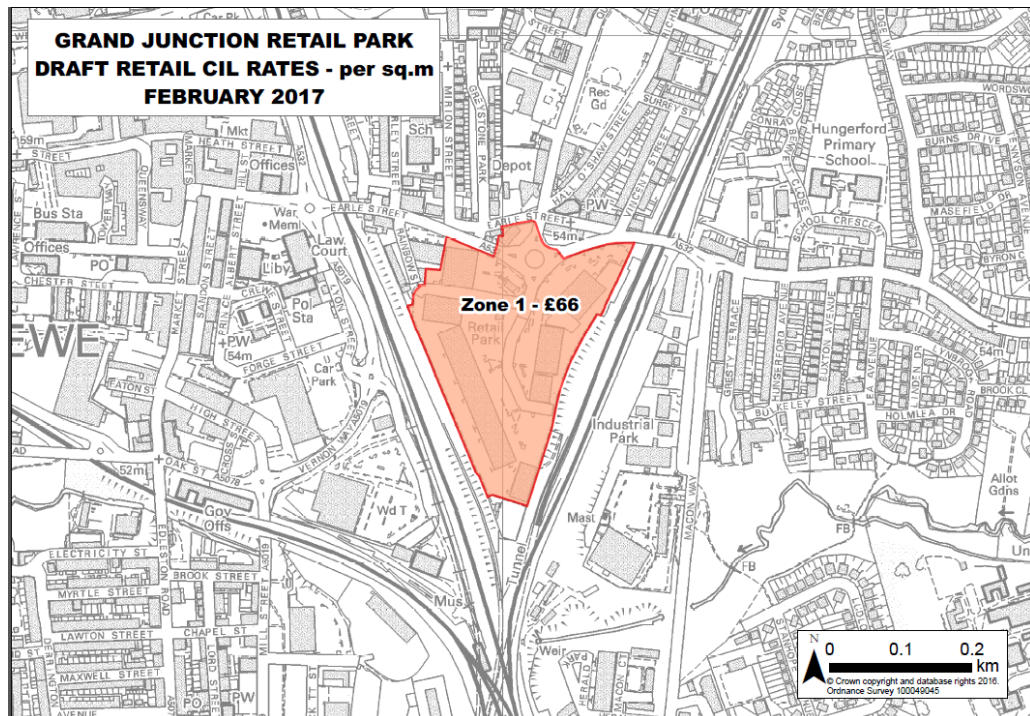


5.23. In respect of non-residential uses, Keppie Massie recommend:-

- That industrial units and office accommodation on B1, B2 or B8 employment uses do not support a CIL charge at this time

5.24. In respect of retail uses, Keppie Massie recommends a CIL Charge could only be supported at Handforth Dean Shopping Centre and at Grand Junction Retail Park at Crewe at a value of £66 per sqm, as shown on the Plans below:





- 5.25. The Council must consult the bodies listed in Regulation 15 of the CIL regulations (as amended by the 2012 Regulations) sending them a copy of the Preliminary Draft Charging Schedule and inviting them to comment. They must also invite comments from local residents, businesses and voluntary organisations (under Regulation 15(5)).
- 5.26. The CIL Regulations do not specify how charging authorities should consult, because charging authorities are best placed to decide how best to engage with their local communities and other relevant parties. Charging authorities may also decide how long a consultation period to offer,

although they should consider an appropriate period to ensure that respondents have enough time to comment. The Council's standard approach to consultation on the Local Plan is 6 weeks and it is proposed to be consistent with that approach. The consultation on the CIL Preliminary Draft Charging Schedule is anticipated to take place alongside the public consultation on the Site Allocations and Development Policies Issues Paper and will involve the notification of the Local Plan consultation database.

- 5.27. In November 2015, the Government announced an independent review of the Community Infrastructure Levy and the extent to which it is meeting its objectives. The review has considered whether 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.
- 5.28. The Housing White Paper, published on the 7<sup>th</sup> February 2017 notes that Government is currently exploring longer term reforms to the system of developer contributions (S.106 and CIL) and intends to announce any changes to its current operation at the 2017 Autumn Budget Statement. Officers will report to Members any changes to the operation of CIL in subsequent committee papers in developing a CIL charge as the Council will need to keep its approach to CIL under review in the light of any future changes to the overall operation of CIL.

#### **Implementation and Governance of CIL**

- 5.29. Once a CIL Charging Schedule is adopted, Cheshire East Council will be the charging authority who collects, allocates and monitors how the levy is spent.
- 5.30. Alongside the establishment of the CIL charge, work led by the Spatial Planning / Development Management team(s) and monitored by the Project Management Office is going on to ensure the smooth transition to a CIL regime, once adopted, including the consideration of the implementation and governance of CIL. There will be a cost involved in setting up and managing the CIL collection process. Up to five percent of total CIL receipts can be spent on administrative expenses.
- 5.31. A detailed project plan, has been prepared that will take account of arrangements for governance, scrutiny and review of CIL including appropriate Member input on matters including the Regulation 123, the mechanism for deciding how CIL monies are monitored and spent once the CIL charge is introduced.
- 5.32. Prior to its introduction, systems will need to be in place to:
- inform Members, stakeholders including Town and Parish Councils, developers and landowners about CIL;
  - ensure that additional CIL information is submitted within planning applications;

- calculate the CIL charge for each development;
- send out the required notices to the applicant (liability notice, commencement notice, demand notice);
- assess applications for relief or exemption from the levy; and
- arrange payment procedures (including payment in instalments if permitted).

## **6. Wards Affected and Local Ward Members**

6.1. All Wards and Local Ward Members

## **7. Implications of Recommendation**

### **7.1. Policy Implications**

7.1.1. 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.

### **7.2. Legal Implications**

7.2.1. The implementation of CIL is governed by the Community Infrastructure Regulations 2010 (as amended).

### **7.3. Financial Implications**

7.3.1. The previous CIL report to Cabinet in February 2016 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 CIL Charging Schedule, providing additional supporting evidence and funding the Examination. This is a 'one off' cost to meet a particular opportunity and represents the start up costs of the Levy. Further costs will ultimately be incurred in the administration and collection of CIL, but these can be recovered through the charge itself.

7.3.2. 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.

7.3.3. Under the Regulations, 15% of CIL contributions are required to be spent locally within the relevant town or parish where development has taken place, subject to a yearly limit of £100 per council tax property.

Where a Neighbourhood Plan is in place this rises to 25% with no yearly limitations. Neighbourhood planning is actively being pursued in 40 town and parishes across the Borough. There are currently 5 'made' Neighbourhood Plans in Cheshire East (i.e. Bunbury, Sandbach, Brereton, Audlem and Marton), with a further group of Neighbourhood Plans expected to reach the latter stages of preparation (examination and referendum) in this financial year and the remainder at earlier stages of Plan preparation. So significant areas of the Borough are likely to benefit from the introduction of CIL.

7.3.4. CIL is particularly designed to support infrastructure projects – and as such it has the potential to compliment or ease the costs attributed to the Capital Programme.

7.3.5. The cost of consulting on the Preliminary Draft Charging Schedule and draft 123 list will be met from within existing resources.

7.3.6. Discussions with other authorities who have implemented CIL, note an increase in planning applications prior to the implementation of the Levy. This required short term additional capacity in ensuring the processing of applications and legal support on S106 agreements

7.3.7. Similarly, a short term reduction in planning application activity followed the initial adoption of the levy and the expected CIL return in the first year was lower than expected. It is expected therefore that there will not be a significant immediate benefit seen by CIL and the system will take time to collect appropriate funds. The Council's expectations on immediate returns should reflect this.

#### **7.4. Equality Implications**

7.4.1. A CIL Charging Schedule is not a policy document but a local charge on development. The Preliminary Draft Charging Schedule set out in appendix A is based on evidence relating to infrastructure needs in Cheshire East to support the proposals in the Local Plan Strategy and the ability of development to support a CIL charge from a viability perspective.

#### **7.5. Rural Community Implications**

7.5.1. In those areas where a CIL rate applies, Town and Parish Councils will directly receive some of the CIL receipts resulting from development in their area.

#### **7.6. Human Resources Implications**

7.6.1. During implementation, resource from Spatial Planning, Development Management (including Civicance), Revenue and Legal Services will be required to deliver the project.

7.6.2. A wider cross service implementation officer group comprising representatives from services that have projects in the Infrastructure Development Plan will occasionally meet to advise and help the project shape the charging schedule.

7.6.3. Once the CIL is adopted and operational, additional long term resource may be required in services to operate and govern the levy. This will be determined once the operation implications of the levy are understood and in any case can be covered financially by the levy.

## **7.7. Public Health Implications**

7.7.1. Depending on the infrastructure to be provided, there could be a positive impact on health, for example the provision of additional open space or opportunities for walking, cycling or access to services and facilities.

## **7.8. Implications for Children and Young People**

7.8.1. Depending on the infrastructure to be provided, there could be a positive impact on Children and Young people, for example the provision of educational facilities or other infrastructure at varying scales, either local or of a larger scale in the Borough.

## **8. Risk Management**

8.1. 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.

8.2. The CIL programme will be managed under the wider Spatial Planning Delivery programme and monitored corporately by the Project Management Office. A wider officer led CIL implementation group has been formed and governance arrangements currently being arranged.

8.3. CIL must be produced in accordance with legal requirements and will be subject to public examination, requiring robust evidence to ensure that CIL Charging Rates set an appropriate balance between the funding of infrastructure and the impact on viability on development across the Borough.

## **9. Access to Information/Bibliography**

9.1. The Local Plan Strategy Examination Pages can be viewed using the following website link:- <http://cheshireeast-consult.limehouse.co.uk/portal/planning/cs/sub1>

**Appendix A – Preliminary Draft Charging Schedule Consultation Document**

**Appendix B – Initial Draft Regulation 123 list (Appendix B will follow the publication of the report and will be made available prior to the Portfolio Holder meeting)**

**Appendix C – Draft Keppie Massie Viability Report**

**Appendix D – Infrastructure Delivery Plan (July 2016) For Information only can be viewed here <http://cheshireeast-consult.limehouse.co.uk/file/4094467>**

## **10. Contact Information**

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