

 <b>COUNCIL</b> <b>12 April 2017</b>		<b>Agenda Item No.</b>
<b>Title</b>	Community Infrastructure Levy (CIL)	
<b>For further information about this report please contact</b>	David Butler Business Manager – Policy & Development  01926 456017 David.butler@warwickdc.gov.uk	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Executive 05 <sup>th</sup> Jan 2016, Item 6 Full Council 28 <sup>th</sup> Jan 2015, Minute Number 67 Executive 4 <sup>th</sup> June 2013, Item 4	
<b>Background Papers</b>	BNP Paribas Viability Report (Update) – 2016 BNP Paribas Viability Report – 2015 BNP Paribas Report - 2013	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	
<b>Equality Impact Assessment Undertaken</b>	Yes

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	03/04/17	Bill Hunt
Head of Service	03/04/17	Tracy Darke
CMT	03/04/17	Chris Elliott/Bill Hunt/Andy Jones
Section 151 Officer	03/04/17	Mike Snow
Monitoring Officer	03/04/17	Andy Jones
Finance	03/04/17	Mike Snow
Portfolio Holder(s)	03/04/17	Cllr Stephen Cross
<b>Consultation &amp; Community Engagement</b>		
Consultation on the initial Preliminary Draft Charging Schedule (PDCS) took place in June 2013. Further public consultation on the refreshed Draft Charging Schedule took place in January and February 2017.		
<b>Final Decision?</b>	Yes	
<b>Suggested next steps (if not final decision please set out below)</b>		

## 1. **Summary**

- 1.1 This report requests approval of the Community Infrastructure Levy (CIL) Draft Charging Schedule following public consultation.

## 2. **Recommendations**

- 2.1 That Council approves the submission of the Community Infrastructure Levy Draft Charging Schedule and Regulation 123 List set out in Appendix 2 and Appendix 4 to the Secretary of State for independent examination along with all other documents and information as required by the Town and Country Planning (Local Planning) (England) Regulations 2012, in accordance with section 20 of the Planning and Compulsory Purchase Act 2004.
- 2.2 That the Head of Development Services, where necessary in consultation with the Development Services Portfolio Holder, be authorised to take any steps which she considers to be expedient for the purpose of implementing recommendation 2.1 or promoting the objectives and interests of the Council at the independent examination.

## 3. **Reasons for the Recommendations**

- 3.1 The Council is committed to introducing a CIL Charging Schedule which, in addition to other funding mechanisms such as Section 106 (S106) contributions, will support the delivery of the infrastructure required for the level of growth proposed in the Local Plan. It is intended to complement rather than replace other funding streams and to promote development rather than hinder it.
- 3.2 The Council consulted on a Preliminary Draft Charging Schedule (PDCS) in June 2013. A summary of the consultation on the PDCS has been prepared, along with responses to the points made and was brought before Full Council on 28 January, 2015. After the 2013 consultation was undertaken the Council reviewed the CIL viability study to ensure the viability evidence was up to date (reflecting for instance increased residential sales values and increased build costs), concluding that the originally drafted rates were still applicable. This Draft Charging Schedule (DCS) was subsequently consulted upon in January 2015, with the intention of bringing adoption forward in tandem with the Local Plan.
- 3.3 However, the progress of preparing the Council's finalised CIL submission was subsequently halted by delays with the Local Plan. As such, the initial Draft Charging Schedule had fallen out of date and a viability refresh was commissioned to ensure the evidence remains robust and up-to-date. The viability report and an amended DCS was brought before Executive in January 2017.
- 3.4 Following approval at the January 2017 Executive meeting, the refreshed DCS was consulted upon between 16 Jan and 20 Feb 2017. Officers have carefully considered the representations made to the Council and sought specialist advice on technical matters. There were no changes to the Draft Charging Schedule, although there are minor amendments to the Zoning Map. The summary of representations and responses to the points made is included as **Appendix 1**, the final DCS included in **Appendix 2** and the revised Zoning Map in **Appendix 3**.

- 3.5 To adopt a CIL Charging Schedule, we will need to demonstrate that there is a funding gap which exceeds the likely receipts from other sources. This is set out in a live and evolving document called a Regulation 123 List (**Appendix 4**). The Regulation 123 list is drawn from the Infrastructure Delivery Plan which was considered during the Local Plan Examination in Public that ended in December 2016.
- 3.6 There are two key considerations when compiling the Reg123 list; that Section 106-funded infrastructure projects cannot receive contributions from more than 5 sites (known as 'pooling') and that a project cannot receive funding from both CIL and S106. Therefore, the Reg123 list primarily comprises of infrastructure projects that are either not directly related to specific developments or that would be inappropriate for Section 106 funding due to the pooling restrictions.
- 3.7 As projects are completed the Reg123 list will require updating, and this revised list will be brought before Executive annually after adoption. This will allow for new projects to be added to the list as well as removed.
- 3.8 To enable the CIL scheme to operate effectively from the date of adoption, a CIL Transition Project Manager has been appointed. This post will ensure that processes are in place to enable monies to be collected promptly and allocated to priority infrastructure projects at the time required, working across all relevant departments of the Council. The project will cover processes to ensure there is full clarity regarding;
- a) the way money is allocated to priorities in the Reg 123 list and how funding is accumulated to ensure sufficient funding is accrued to deliver infrastructure schemes
  - b) how and when the inflationary provision in the regulations are applied
  - c) the systems, mechanisms and monitoring processes to ensure CIL monies are fully tracked and are published annually in line with the regulations

#### 4. **Policy Framework**

- 4.1 **Fit for the Future** – The adoption of CIL will allow for the delivery of the infrastructure the District requires. It is therefore closely aligned with the Council's vision of the District as a great place to live, work and visit.
- 4.2 CIL will directly impact on the key strand of money - achieving and maintaining a balanced budget, by covering the funding deficit in infrastructure projects.
- 4.3 **Impact Assessment:** the Consultation was undertaken in line with the Council's Statement of Community Involvement (SCI) 2016 approved by Executive in January 2016. The SCI specifically seeks to ensure that all relevant sectors of the community are consulted. The Local Plan has been subject to an equalities impact assessment.

#### 5. **Budgetary Framework**

- 5.1 There are no specific costs directly incurred as a result of submission of CIL scheme to the Secretary of State.
- 5.2 Once submitted to the Secretary of State, an Inspector will be appointed and a short Examination in Public arranged. There will be costs associated with this

such as room-hire, but these will be met from existing budgets. However, should a significant additional cost be identified as part of this process a further report will be brought to Executive.

- 5.3 As referred to in Section 3, the adoption of CIL is an important mechanism to generate funding towards many of the infrastructure costs resulting from the Local Plan, with these items being included in the Regulation 123 list. It will be noted that the CIL has to be calculated on the basis of scheme viability. CIL will not fund the entire 123 List, which will mean that the relevant authorities will need to seek alternative funding to supplement it.

## **6. Risks**

- 6.1 It should be noted that in a recent paper of recommendation to government (and included in the recent Planning White Paper) it is likely that CIL will itself be replaced by a new regime over the medium term. Officers are committed to transition to the new scheme once further details are announced and relevant legislation enacted. However, these timeframes remain unclear; progressing with CIL is the appropriate course of action to ensure that the funding gap of required infrastructure projects is closed.
- 6.2 Should CIL not be adopted, there is a risk that the significant growth expected within the District will not contribute fully to the infrastructure that is needed (for example, the development spike likely to follow the release of Green Belt land with the adoption of the Local Plan). This would leave a financial deficit that would need to be met from other sources, or not be met at all.

## **7. Alternative Option(s) considered**

- 7.1 The Council could choose not to pursue a CIL scheme or could choose to delay the submission to the Secretary of State. Both courses of action would undermine the options the Council has to providing the funding needed to deliver the Infrastructure Delivery Plan. It is important to have a CIL scheme in place close to the date of the adoption of the Local Plan as there is likely to be a significant increase in housing planning applications once the Plan is adopted and additional sites released for development. This is particularly important in the context of the CIL regulations which prohibited the pooling of more than five S106 contributions after 1<sup>st</sup> April 2015.

## **8. Background**

- 8.1 The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008 and is a tariff system that enables local authorities to make a charge on most forms of new development to fund infrastructure needed to support development. The CIL Regulations came into effect in April 2010 and minor amendments were made to the Regulations in April 2011. Further Regulations were published during 2012.
- 8.2 CIL is a charge on new development; it is charged per square metre on net additional floor-space of development. CIL is not charged on affordable housing and developments used for charitable purposes. The amount payable will be set at the time planning permission is granted and payment will be linked to the commencement of development. Larger amounts will be payable in instalments over fixed time periods.

- 8.3 CIL is intended to complement rather than replace other funding streams and is intended to promote development rather than hinder it. Its main advantages are that:
- It is modest representing around 2-5% of total development costs and is not charged on types of development that cannot sustain it.
  - It is a fixed, non-negotiable charge and is therefore transparent and predictable.
  - It is less time-consuming and complicated than Section 106 planning obligations, with less need for protracted negotiations with applicants and the drawing up of legal agreements (although these will still be required to secure affordable housing and addressing onsite mitigation).
  - Local communities will be able to influence how a proportion of CIL receipts are spent in their areas, so that communities can benefit from development in their area. In areas where a Neighbourhood Plan is in place, 25% of CIL receipts arising from developments in that area will be controlled by local neighbourhoods. Elsewhere, neighbourhoods will control 15% of CIL receipts relating to developments in each area.
- 8.4 Unlike funding from Section 106 agreements, CIL funds can be spent on a wide range of infrastructure to support development without the need for a direct geographical or functional relationship with the development. Planning obligations / Section 106 agreements will still be used, but in a more focused way to directly provide both 'off-site' infrastructure, through S106 contributions, and 'on site' improvements through planning conditions to mitigate the direct impact of the development proposed (e.g. landscaping, access roads).
- 8.5 Under CIL, developers can still be required to directly provide both 'offsite' infrastructure, through Section 106 contributions, and 'on site' improvements through planning conditions to mitigate the direct impact of the development proposed (e.g. landscaping, access roads).
- 8.6 The Draft Charging Schedule is underpinned by the Viability Report and it's subsequent Refresh prepared on behalf of the District Council by BNP Paribas. The refresh was conducted using the same industry-standard methodology as the original 2013 Viability Study; testing charging models against both hypothetical developments and a sample of live strategic sites, ensuring that the level of CIL proposed is demonstrably viable.
- 8.7 It should be noted that the proposed charges in the Draft Charging Schedule are less than the maximum possible capacity for developments to theoretically absorb. It is important that the CIL rates are set at such a rate that they do not force developments to become unviable. The CIL regulations state that in setting its CIL rate the Council must:
- "... aim to strike what appears to the charging authority to be an appropriate balance between:*
- *The desirability of funding CIL and the actual and expected costs of infrastructure required to support development and*
  - *The potential effects of the imposition of CIL on the economic viability of development across its area."*
- 8.8 Members will note that there are some changes to the proposed DCS when compared to the one consulted upon in 2015. Critically, the charge to be levied on strategic sites has reduced. This is primarily due to an increase in assumed underlying development costs. For example, the viability model includes

contributions of £13,000 section 106 payments per dwelling and £12,000 on-site infrastructure costs per dwelling. As noted earlier, CIL is complementary to other funding streams such as s106 and the viability assessment is obliged to take these into account when assessing what might constitute a viable levy. It should be noted that by making an allowance for Section 106 contributions and onsite infrastructure provision, the Council can continue to use other forms of funding infrastructure alongside CIL. This enables a flexible and pragmatic approach to be used to infrastructure funding and ensures that the approach is not over-reliant on CIL.