
REPORT TO:	Environmental & Development Services Committee	AGENDA ITEM: 10
DATE OF MEETING:	22 August 2013	CATEGORY: RECOMMENDED
REPORT FROM:	Director of Community & Planning	OPEN
MEMBERS' CONTACT POINT:	David Hackforth, 01283 595821 david.hackforth@south-derbys.gov.uk	DOC:
SUBJECT:	Community Infrastructure Levy	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: EDS17

1.0 Recommendations

1.1 That the Finance & Management Committee be recommended to authorise the Director of Community & Planning to begin the process of implementing a Community Infrastructure Levy Charging Schedule for South Derbyshire, including the production of an in-house infrastructure delivery plan and to explore the joint commissioning of consultants to produce infrastructure funding gap analyses and CIL viability assessments for Amber Valley, Derby City and South Derbyshire.

2.0 Purpose of Report

2.1 To inform the Committee about the Community Infrastructure Levy (CIL) and to seek authority to begin the process of implementing a CIL scheme for South Derbyshire, including the production of an infrastructure needs assessment, funding gap analysis and viability assessment.

3.0 Executive Summary

3.1 CIL is a levy that local authorities in England & Wales can choose to charge on new developments in their area to help fund infrastructure improvements. It was first introduced by the previous Government in 2010 but is now a significant element of the current Government's localism agenda.

3.2 Money raised by CIL can be used to support new development by funding necessary infrastructure such as new road schemes, improvements to the capacity of local schools and open space and recreation provision. A "meaningful proportion" of CIL funds must be used for local priorities. The system is intended to be relatively simple and, provided it would not make the development financially unviable, it can be applied to most new building proposals. It will be for the Council to determine and publish how it intends to use CIL.

3.3 The CIL Regulations 2010 currently mean that after 6 April 2014, CIL will be the only effective means by which local planning authorities can secure pooled contributions

from developments to address infrastructure needs. Those Regulations also limit the extent to which the Council can secure such contributions through planning obligations (S106 agreements). The Department of Communities and Local Government (DCLG) has recently consulted on proposed changes to the CIL Regulations which would, amongst other things, defer the pooled contributions deadline to April 2015. It is therefore likely to be in the Council's interests to progress with a CIL scheme as soon as possible.

- 3.4 Derbyshire County Council began a consultation on a refresh of the Derbyshire Infrastructure Plan on 7 August 2013. The document is available on the County Council website and comments are invited on the Plan until the close of the consultation at 5pm on Friday 15 September 2013.

4.0 Detail

- 4.1 CIL is a charge that can be levied on developments to help pay for the infrastructure that is required to mitigate the impacts of development and to support the delivery of growth. CIL was introduced by the Planning Act 2008 and subsequent Regulations. The Coalition Government is committed to continuing with CIL as a fairer and more open way of raising finance for infrastructure necessitated by new development.
- 4.2 Although CIL is intended to contribute to the delivery of infrastructure that local authorities and communities consider to be a priority, it will not generally be sufficient to pay the full costs. CIL will usually be one ingredient in a complex "cocktail" of funding sources needed to cover the cost of infrastructure. A "meaningful proportion" of the money raised by CIL must be passed to the relevant town or parish council (or in un-parished areas, held by the district council for spending on locally determined priorities). Where a neighbourhood plan or a neighbourhood development order is in place, the proportion is 25%. In other areas the proportion is 15%.
- 4.3 This Council currently operates an informal "tariff" approach to planning obligations intended to deal with the cumulative impacts of development. Although the Council's approach is based on a set of formulae and related charges, we can only require developer contributions where the impacts arise as a result of the proposed development. Unlike CIL, the tariff is not a standard fee or "tax" that applies to all development proposals and this limits the Council's ability to secure contributions.
- 4.4 In addition, one consequence of the CIL Regulations 2010 is to strictly limit councils' ability to use existing tariff approaches. After 6 April 2014 (or April 2015 if the DCLG's proposed amendment to the CIL Regulations takes place), pooling planning obligation contributions to fund off-site infrastructure will be limited to contributions from no more than five separate planning obligations and S106 agreements will otherwise be restricted to local, on-site infrastructure, making tariffs largely unworkable. This is deliberate – Ministers and Civil Servants have identified "killing off" tariffs as an explicit intent of the Regulations. It is clear that in the near future CIL will become the only effective tool available to local authorities to secure strategic infrastructure contributions from developers.
- 4.5 The CIL process will be completely separate from the negotiation of planning obligations via S106 agreements. S106 agreements will however still be needed to secure affordable housing and to deal with any on-site mitigation measures.
- 4.6 Officers are not yet able to predict what funds might be raised by a South Derbyshire CIL but the range of developments for which CIL would be payable can be

considerably wider than under the existing tariff arrangements so a generalised levy may produce higher overall contributions.

4.7 The Charging Schedule is the public document that sets out the CIL rates (on a £x per sq. m basis) that the Council intends to apply to different types of development in its area. However, before it can produce a CIL Charging Schedule the Council will need a satisfactory evidence base. Evidence on the following issues will be particularly important:

- The infrastructure funding gap
- The viability of development

4.8 The infrastructure funding gap is the gap between the cost of infrastructure that has committed funds and the cost of infrastructure that does not and it is the existence of a funding gap that justifies the introduction of CIL. CIL is intended to pay (in part) for the provision of identified, necessary infrastructure that would otherwise not be affordable, thus the supporting the delivery of the sustainable growth strategy in the Council's Local Plan.

4.9 An infrastructure needs assessment and/or infrastructure delivery plan are key to determining the infrastructure funding gap. They identify: the long-term infrastructure needed to accommodate the planned growth in South Derbyshire; the indicative costs of that infrastructure; and actual or potential funding sources and delivery mechanisms. Although some local authorities have used external consultants to produce their infrastructure needs assessment, this is not essential. Within Derbyshire, Chesterfield Borough Council, which is at the CIL preliminary draft Charging Schedule stage and Amber Valley Borough Council, which is currently consulting on the pre-publication version of its Local Plan, have both produced infrastructure delivery plans in-house. It may however, be advisable to seek expert assistance in demonstrating the existence of a funding gap, as Chesterfield has done.

4.10 Derbyshire County Council began a consultation on a refresh of the Derbyshire Infrastructure Plan on 7 August 2013. The Plan sets out the County Council's views on current and future needs and spending priorities for infrastructure and service delivery. Local planning authorities should use the Derbyshire Infrastructure Plan to inform their CIL Charging Schedules and associated list of spending priorities. The document is available on the County Council website and comments are invited on the Plan until the close of the consultation at 5pm on Friday 15 September 2013.

4.11 The viability of development is a key consideration in setting the CIL rates in the Charging Schedule. CIL rates must not be set so high that they make development unviable. The Council will have to strike a realistic balance between the desirability of maximising funding from CIL for the infrastructure needed to support the growth of the area (taking into account other potential funding sources) and the potential effect of the imposition of CIL on the economic viability of development across the district.

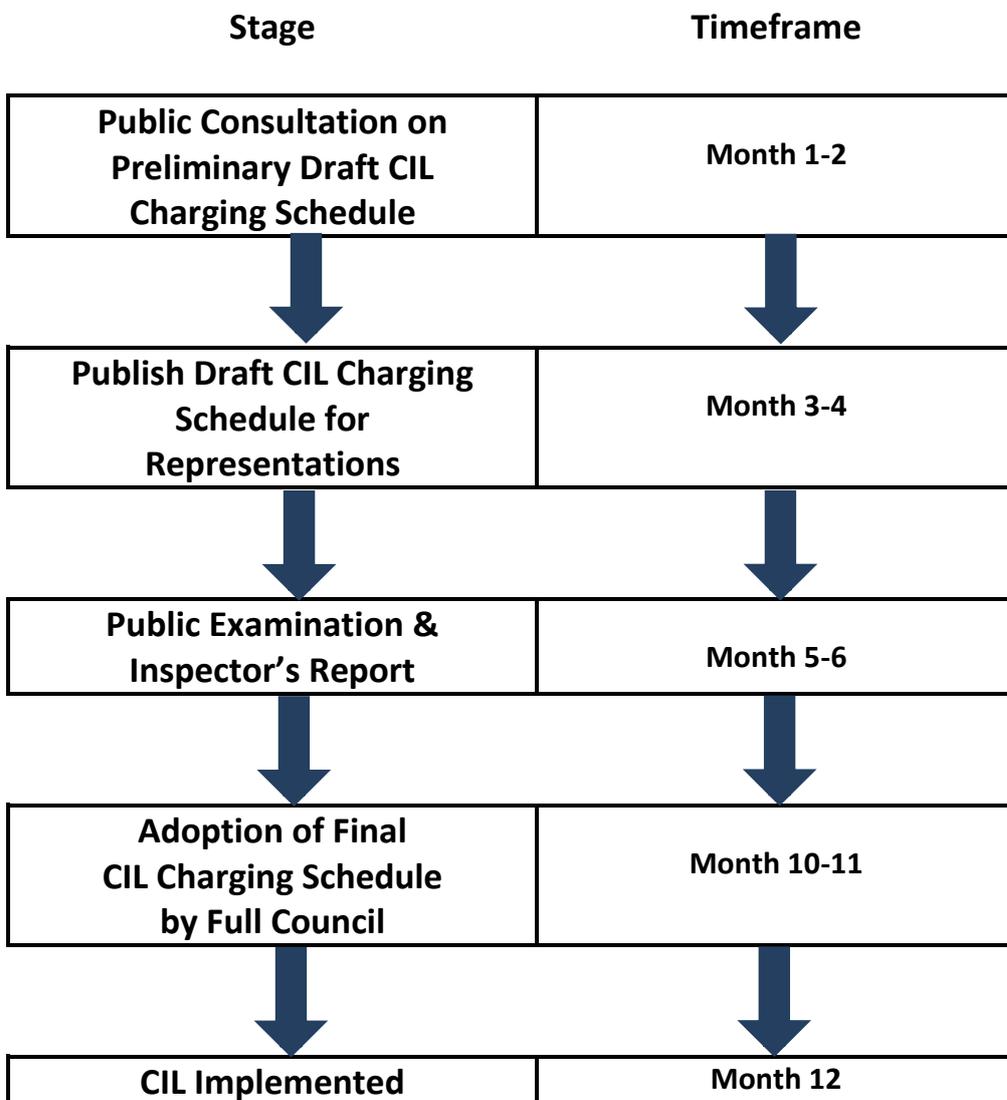
4.12 The reasonableness of the Charging Schedule will be tested via an independent examination. The examiner (normally a PINS Inspector) will have to be convinced that the Council has struck a realistic balance, as described above, so the Council will need to demonstrate that it has taken account of economic viability in setting its CIL rates. This evidence must take account of building costs, land values and property sales prices in different parts of the district and for different uses. This

requires specialist expertise and is likely to require the engagement of a consultancy with a proven track-record in viability assessments.

4.13 The Derby Housing Market Area (HMA) covers Derby City, Amber Valley and South Derbyshire and there is a history of co-operative working by the county, city and district councils, including the joint commissioning of an HMA-wide Strategic Viability Assessment. It would be sensible to explore the possibility of jointly commissioning further consultancy support for the funding gap analysis and carrying out the CIL viability assessment. A joint approach is likely to be cheaper than the three councils proceeding individually.

4.14 The CIL Regulations prescribe the process that local authorities must follow in order to adopt a CIL Charging Schedule. The following flowchart identifies the main stages in adopting CIL, together with estimated timescales. The Final Charging Schedule must be approved by the full Council before it comes into effect.

Implementing the Community Infrastructure Levy



5.0 Financial Implications

5.1 Much of the process for implementing a CIL Charging Schedule for South Derbyshire can be carried out by the Council's officers without additional cost, including the production of an in-house Infrastructure Delivery Plan. However, the necessary infrastructure funding gap analysis and CIL viability assessment will require external consultancy support. Officers will pursue the possibility of commissioning this work jointly with Derby City Council, Amber Valley Borough Council and Derbyshire County Council, if possible using funding from the Derby HMA budget. In the event that joint commissioning is not possible or the HMA budget is insufficient, a further report will be brought to the Committee. It is anticipated that the cost of the PINS Inspector to examine the draft Charging Schedule can be met from the Planning Policy Professional Services budget head.

6.0 Corporate Implications

6.1 Funding from CIL will help to secure the infrastructure needed to achieve sustainable growth and strengthen South Derbyshire's economic position within a 'clean' and 'sustainable' environment.

7.0 Community Implications

7.1 Funding from CIL will help to secure the infrastructure needed to achieve sustainable development.

9.0 Conclusions

9.1 After April 2014, CIL will be the only effective means by which the Council will be able to secure pooled contributions from developers to address infrastructure needs. The CIL Regulations also limit the extent to which the Council can secure such contributions through planning obligations (S106 agreements). It is therefore in the Council's interests to progress with a CIL scheme as soon as possible.

10.0 Background Papers

- 10.1 "Section 106 Obligations & the Community Infrastructure Levy" Planning Officers Society Advice Note April 2011
- 10.2 "CIL & Infrastructure Planning" Planning Officers Society Advice Note October 2011
- 10.3 "Community Infrastructure Levy: Guidance" Department for Communities & Local Government April 2013
- 10.4 "Applying the Community Infrastructure Levy" Planning Advisory Service August 2012