

THE OVERVIEW & SCRUTINY COMMITTEE

23 January 2012

COMMUNITY INFRASTRUCTURE LEVY (CIL) - UPDATE

REPORT OF HEAD OF STRATEGIC PLANNING

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RECENT REFERENCES:

[CAB2178\(LDF\)](#) – Revised Local Development Scheme – Cabinet (LDF) Committee  
– 6 June 2011.

EXECUTIVE SUMMARY:

The Committee has requested that an update be submitted to this meeting regarding the Community Infrastructure Levy (CIL). This report explains CIL, considers the issues it raises for Winchester District and provides an update on the work which has been undertaken to meet the programme for production and adoption of the Council's CIL Charging Schedule.

RECOMMENDATION:

That the content of the report be noted and that the Committee supports the production of the Council's Community Infrastructure Levy Charging Schedule in accordance with the programme set out in the 2011 Local Development Scheme.

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##### DETAIL:

##### 1 Introduction

- 1.1 The Overview and Scrutiny Informal Scrutiny Group chairs discussed the possibility of establishing an Informal Scrutiny Group to consider how developer contributions are collected and used, particularly through Section 106 obligations and the forthcoming Community Infrastructure Levy. Before deciding on whether to establish an ISG, and on its timing, the Committee asked for an update on the Community Infrastructure Levy (CIL), which this report provides.
- 1.2 Regulations to implement a Community Infrastructure Levy (CIL) were brought into effect in April 2010 and modified in April 2011. The Community Infrastructure Levy can be charged on new developments across the District, with the funds to be used for infrastructure projects to support new development. The Council already collects contributions from developments or requires developers to enter into planning obligations via S106 agreements, to secure funding for specific elements so as to enable developments to be implemented and the necessary infrastructure funded.
- 1.3 As of April 2014, S106 will no longer be able to be used as a means to collect pooled contributions to fund infrastructure. It is therefore important for the Council to introduce CIL before this deadline, so as to retain the ability to secure developer contributions. It is also necessary to have an up to date development plan document in place setting out the development strategy for the District and corresponding levels of development, prior to the introduction of CIL. In Winchester's case, the relevant development plan document will be the Local Plan Part 1 – Joint Core Strategy.
- 1.4 Given the imposed timescales for introducing CIL, the Council's Local Development Scheme (the programme for producing Development Plan Documents) was updated in July 2011 and now includes a timetable for producing a CIL 'Charging Schedule'. The Charging Schedule sets out the CIL charges which are applicable for new buildings.
- 1.5 The processes for preparing a Charging Schedule are slightly different to those for a formal Development Plan Document (DPD) but the Schedule is still required to be examined and assessed in terms of development economics, in particular viability. The Local Development Scheme therefore

indicates that the Council would commence informal preparation on the CIL charging schedule in October 2011. This involves an assessment of District-wide infrastructure requirements for the levels of development in the emerging Local Plan Part 1 – Joint Core Strategy, building on the work already undertaken on the LDF Infrastructure Study. The programme anticipates formal consultation on a draft Charging Schedule at the end of 2012 and adoption in September 2013.

## 2 The Community Infrastructure Levy (CIL)

- 2.1 Councils may decide whether or not to introduce CIL but, once a Charging Schedule has been adopted and brought into effect it becomes a mandatory 'tax'. It is based on a charge per square metre of floorspace and the charge can be varied in different parts of the District and for different types of building. It can only apply to buildings which 'people normally go into' and is not chargeable for changes of use where there is no increase in floorspace. CIL charges cannot be levied on social housing and cannot be used to fund affordable housing (although the Government has recently consulted on whether CIL should be used to fund affordable housing).
- 2.2 Charging rates should be based on the overall level of funding needed to bridge any funding 'gap' between the cost of infrastructure needed to provide for development in the area and known sources of funding. It should not be used to overcome existing shortfalls (unless development would exacerbate them) and must not threaten the general viability of development. In practice, it is the effect of the Levy on viability which is likely to prove the limit on the amount charged and some uses or locations may warrant a zero charge.
- 2.3 Local planning authorities who are responsible for preparing development plans (e.g. District Councils and National Park Authorities) are the 'charging authorities' for most developments and would receive the income from the Levy. It is for charging authorities to decide whether they wish to give any receipts to other authorities, such as County Councils, but a 'meaningful proportion' must be given to the neighbourhood in which the development takes place. The Localism Act enables regulations to be produced which specify these requirements and how funds could be used. There is no specific definition of infrastructure, but funds must be used to support development in the area, which can include the provision, improvement, maintenance or operation of infrastructure.
- 2.4 S106 obligations can still be used, even after April 2014, but from that date the planning authority cannot use more than 5 contributions to fund any given piece of infrastructure. In practice, CIL would need to be introduced to secure general funding contributions, such as those currently sought for open space and transport. However, S106 would be more appropriate for securing the provision of specific items of infrastructure in conjunction with development. This is particularly relevant to larger developments, where it is crucial that schools, open space, transport works, etc are provided on-site and at a particular stage of development (or are subject to ring-fenced contributions).

These would be secured through S106 and the regulations prevent any double-charging through CIL.

- 2.5 Hence the Council's emerging Local Plan Part 1 specifies that, wherever possible, infrastructure provision should be through dedicated on-site provision (secured through S106), or contributions to specific off-site works. CIL contributions would be required in other cases but would not be the preferred option because they could not be tied to a particular item of infrastructure, or a specific development. Accordingly, most larger sites should continue to provide the main infrastructure items through S106 agreements, although there may be a limited contribution through CIL towards non site-specific infrastructure. With 7,500 of the 11,000 dwellings planned over the next 20 years being in major developments (at West of Waterlooville, North Whiteley and North Winchester), as well as various other larger sites, it can be seen that only a limited proportion of future infrastructure funding in the District will come through CIL.
- 2.6 As well as the major developments mentioned above, there is likely to be little or no CIL contribution from other schemes already permitted but not yet complete (nearly 1000 dwellings District-wide), from sites permitted before CIL is introduced and from other larger sites (possibly 500 units?). CIL may, therefore, be charged in full on as little as 2,000 dwellings at rates of perhaps £5,000 - £10,000 per dwelling, resulting in expected contributions from residential development over 20 years of perhaps £10m - £20m. This may prove to be a cautious estimate as larger sites may make some contribution and development levels may be above those planned, but it compares to receipts of just over £4.4m to the open space fund alone over the last 10 years (2001-2011). These figures include that part of the District within the South Downs National Park, where contributions would be collected and used by the National Park Authority (as the charging authority for that area), although the level of housing and therefore Levy receipts is likely to be modest within the National Park.
- 2.7 CIL is, therefore, likely to generate substantial funds, but could also be subject to demands from a much wider range of services and infrastructure. Ultimately it will be for the City Council to prioritise and balance any competing claims. The Council will need to produce a list of projects or types of infrastructure which it will, or may, fund from CIL receipts (the 'Regulation 123 list'). The Council cannot seek S106 agreements for items on this list, but can withdraw or change the list. This list does not have to be the same as the Charging Schedule which would have been submitted and examined prior to the CIL rate being set locally. Thus, unlike S106 obligations, there does not have to be a link between the developments which contribute CIL and the items or areas in which it is spent.

### 3 Current/Proposed Work

- 3.1 The programme for production of the CIL Charging Schedule is set out in the Council's Local Development Scheme as set out in the table below. The programme envisages the development of the Charging Schedule between October 2011 and October 2012. The Council's Infrastructure Study has now been published and provides some of the information required relating to the infrastructure which is needed and its likely cost and phasing. However, the most significant area of work is the viability testing, which is likely to be the main determinant of CIL charges locally.

<b>CIL Charging Schedule Programme</b>	
<b>Timetable of Key Stages</b>	
Development of Charging Schedule – viability testing	October 2011 – October 2012
Consultation on Preliminary Charging Schedule (6 weeks)	October 2012
Consultation on Draft Charging Schedule (4 weeks)	December 2012
Submit draft Charging Schedule to be examined	Feb 2013
Pre- Hearing meeting if required	March 2013
Hearing sessions open	May 2013
Examiner's report published	July 2013
Adoption	September 2013

- 3.2 The Affordable Housing Viability Study (2010) is in the process of being updated and, rather than looking just at the ability of housing schemes to support affordable housing provision, it is considering the total developer contribution 'pot' which is viable for various types of housing sites. This consists of three main elements: affordable housing; increased construction costs due to sustainability requirements (Code for Sustainable Homes); and infrastructure contributions (through S106 or CIL). The study tests the impact of the Council's aspirations for affordable housing (40%) and sustainability (Government requirements + Code level 4 for water and level 5 for energy) and reaches a conclusion on what (if anything) may be left for S106 or CIL contributions.
- 3.3 Accordingly, part of the necessary work has been completed or is underway, but the bulk of the technical work will be in filling gaps in the infrastructure and

viability work (e.g. to cover non-residential uses) and pulling this together to produce a preliminary Charging Schedule (due Oct 2012). There is insufficient capacity in-house to undertake this work, given the continued emphasis on progressing the Local Plan Part 1 and subsequent DPDs.

- 3.4 It is, therefore, expected that consultants will need to be appointed to complete the majority of this work. Such an appointment has been put on hold due to uncertainty over the budget situation, but there is adequate funding within the Strategic Planning Division's 2011/12 budget to appoint consultants. It is planned to invite tenders for this work shortly and to appoint suitable consultants within the 2011/12 financial year.
- 3.5 It is, therefore, expected that the programme set out above will be achieved. Depending on progress with the Local Plan Part 1 (which is needed to establish the overall levels and location of development in the District), it may be possible to shorten the programme slightly.

#### 4 Conclusion

- 4.1 The stages of work over the next few months are of a very technical nature, concentrating particularly on viability testing to establish a likely charging rate. There will be Member input to compiling the Charging Schedule, although the Schedule is not binding in terms of how CIL contributions must be spent. The key Member decisions are, therefore, likely to be around prioritising and phasing the spending of CIL contributions.
- 4.2 It is recommended that Members take the above information into account in considering whether, and when, they may wish to establish an Informal Scrutiny Group to examine CIL matters.

#### OTHER CONSIDERATIONS:

#### 5 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 5.1 Provision of adequate and timely infrastructure is a key aim of the Local Plan Part 1, which itself is an important part of the implementation mechanism for the Council's Community Strategy. The Local Plan reflects the outcomes of the Community Strategy.

#### 6 RESOURCE IMPLICATIONS:

- 6.1 Adequate funding exist in the Strategic Planning Division's 2011/12 budget to appoint consultants to carry out future stages of work on developing a CIL Charging Schedule. This work is likely to extend into the 2012/13 financial year and require agreement for a 'carry-forward' of the funding.

## 7 RISK MANAGEMENT ISSUES

- 7.1 Failure to develop a CIL Charging Schedule would reduce the Council's ability to ensure that new development contributes proportionately to infrastructure provision. This risk is exacerbated if the introduction of the Charging Schedule is delayed beyond April 2014.

### BACKGROUND DOCUMENTS:

None.

### APPENDICES:

None.