



Report of	Meeting	Date
Joint LDF Officer Team	Central Lancashire LDF Joint Advisory Committee	15 March 2011

COMMUNITY INFRASTRUCTURE LEVY

PURPOSE OF REPORT

1. To update Members on the Community Infrastructure Levy (CIL) and provide information on the advantages and disadvantages of it. The report advises the District Councils should adopt the CIL approach and for Officers to start to prepare a Draft Charging Schedule which would set the levy rates and therefore be the means by which developer contributions towards infrastructure should be collected within Central Lancashire.

RECOMMENDATION

2. To adopt CIL and to prepare a Draft Charging Schedule.

EXECUTIVE SUMMARY OF THE CIL

3. On the 18 November 2010 the Government confirmed that CIL (first introduced by the previous Government) would, with a few changes, be continued as a national approach to collecting developer contributions. It is considered to provide a fairer, more transparent system for funding new infrastructure than the current use of obligations under Section 106 of the Planning Act 1990. The use of the levy is at the discretion of local authorities but the scope to use Section 106 is being curtailed. Unfortunately the full details and regulations as to how CIL is intended to operate have not been finalised. However it is apparent that the process of adopting levy rates will be quite involved and will need to be backed by more evidence, particularly on financial viability. There will be a cost implication of commissioning such research but the option of not pursuing CIL would more than likely mean that monies collected from developer contributions would not be optimised.

REASONS FOR RECOMMENDATION

4. To provide the basis for a consistent approach to preparing for CIL across Central Lancashire.

ALTERNATIVE RECOMMENDATIONS AND OPTIONS

5. To not adopt CIL.

BACKGROUND

6. CIL is a levy that local authorities in England and Wales can choose to charge on new developments. The money can be used to meet both the capital and revenue costs of infrastructure that the Councils, local communities and neighbourhoods want. The system is in essence a simple process and would apply to most new buildings. The charges are based on the size (floorspace) and type of the new development set at levels that would still leave the development economically viable to carry out.

DISADVANTAGES OF NOT ADOPTING CIL

7. If the Central Lancashire authorities do not adopt CIL, after April 2014 the regulations restrict the local use of planning obligations for pooled contributions towards infrastructure which will only be collectable from up to 5 separate obligations for infrastructure capable of being funded through the levy. Therefore without a CIL system in place the Councils would likely miss out on some developer contributed infrastructure funding.

ADVANTAGES OF ADOPTING CIL

8. Central Lancashire's Publication Core Strategy Policy 2 identifies that, in order to deliver the growth of housing and employment it is necessary that the essential infrastructure be delivered by both the public and private sectors. The Councils would normally secure developer contributions towards infrastructure using obligations under Section 106 of the Planning Act 1990. The use of CIL is encouraged because it would provide the following benefits;
 - deliver additional funding for local authorities to carry out a wide range of infrastructure projects (not necessarily connected with the contributing development) that support growth and benefit the local community;
 - give local authorities the flexibility and freedom to set their own priorities for what money should be spent on as well as create a predictable funding stream that allows them to plan ahead more effectively;
 - provide developers with more certainty 'up front' about how much money they will be expected to contribute which in turn should encourage greater confidence and higher levels of inward investment, and;
 - ensure greater transparency for local people because they will be able to understand how new development is contributing to services and facilities in their community.

CHARGING SCHEDULE

9. There is the ability to charge variable levy rates depending on development type and locality. The Charging Schedule sets out the levy rates to be applied. A local authority must aim to deliver an 'appropriate balance' between the desirability of funding infrastructure

from the levy and the potential impact, taken as a whole, of the imposition of the levy on the economic viability of development across its area.

10. The Charging Schedule is initially produced as a draft document. It should be informed by appropriate evidence regarding the infrastructure funding gap (the difference between already available funding from whatever sources and what the full infrastructure costs are) and the general development viability. The formal process leading to adoption of the levy involves public consultation and consideration by an independent examiner by way of an examination process open to public scrutiny. The national guidance issued does not envisage the Charging Schedule to be produced ahead of the Core Strategy being adopted as the Government expects the appropriate evidence base to include an up-to-date development strategy.
11. The possibility does exist for an authority to advance a Draft Charging Schedule alongside a proposed Core Strategy, but that is not a practicable option for the Central Lancashire authorities as it would not be possible to 'catch up' with the Publication Core Strategy. However the authorities could undertake all the work necessary to prepare a Draft Charging Schedule in expectation of the Core Strategy being adopted.
12. Under the current regulations any changes to a Council's proposed levy rates required by the Inspector are binding. However the Government intends to include provisions within the Localism Act to give authorities more discretion as to how Charging Schedules are finalised. On adoption of the finalised levy, the regulations restrict the use of Section 106 obligations to ensure that individual developments are not charged for the same infrastructure items through both obligations and levy. A Charging Authority (District Councils in shire County areas) should set out a list of the infrastructure items it intends to fund from levy revenue.
13. By producing such a list the authorities cannot then seek a contribution towards those same items by way of Section 106 obligations. If the authorities do not publish such a list then this would be taken to mean that the authority was intending to use levy revenue for any type of infrastructure that could be funded by the levy and thus could not seek an obligation contribution towards any such infrastructure. The regulations permit up to 5% of the revenue arising from the levy to be used on administrative expenses.
14. The Localism Bill aims to enable local authorities to allocate a share of the levy raised in a neighbourhood to deliver infrastructure identified by the neighbourhood community itself. The CIL regulations remain to be finalised but what is set is the levy will be expressed as a rate of pounds sterling per square metre of a building's floorspace and will be chargeable on most new developments that involve the creation of floorspace although a nil rate may apply if a charge would render that type of development unviable. Social housing and developments for charitable purposes are completely exempt from CIL. Section 106 obligations remain the method for securing affordable housing although consideration is being given to including this within CIL through the Localism Bill.

ISSUES TO CONSIDER

15. CIL is promoted as being faster, fairer, more certain and more transparent than the use of Section 106 obligations. While these perceived benefits may be debatable in some respects, adoption of the levy should assist in the provision of infrastructure in Central Lancashire. Increases in total funding would arise from the introduction of CIL as it would apply to many more developments than are currently made the subject of obligations. Although there is no compulsion on local authorities to adopt the levy, because it is the

Government's preferred vehicle for the collection of pooled infrastructure contributions the regulations introduce restrictions that will reduce the effectiveness of obligations as a means to secure infrastructure. From the 6 April 2014 (or adoption of the levy) the pooling of contributions towards an item of infrastructure will effectively be limited to that arising from a maximum of five obligations. This would be likely to significantly prejudice the delivery of some infrastructure items in Central Lancashire which would depend upon contributions from numerous developments especially with the likelihood of only severely limited or nil public sector funding being available .

16. In an area where there is two tiers of local government, as in Central Lancashire, decisions would need to be made as to how much money would be passed from the District Councils as Charging Authorities to the County Council as a provider of specific 'County Matter' services and facilities. Wider than this, CIL monies could be passed to other agencies/providers as well being collected by one District Council but spent in the administrative area of another. Much of this would be decided on the basis of infrastructure priorities identified in the approved list of items needing funding.
17. CIL is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result there may still be some site specific mitigation requirements without which a development should not be granted planning permission. Some of these needs may be provided for through the levy but others may not be, particularly if they are very local in their impact. Consequently there would still be scope for development specific (Section 106 type) obligations to enable the Councils to be confident that the specific consequences of development proposals could be mitigated.
18. The proposed Central Lancashire Local Development Scheme (elsewhere on this meeting's agenda) envisages that a single CIL Charging Schedule will be produced to operate across the three District Council areas. The three authorities would need to formally agree to that approach. The advantages of joint preparation are economies of effort and monies but also the benefit of having a complementary rather than conflicting approach to setting levy rates across the area. The rates however may still be set to vary from place to place depending on local differences in economic viability. Such variations would need to relate to the research evidence which would also consider a range of uses, not just housing developments.

CONCLUSION

19. Now that the Government has confirmed its intentions to continue with CIL it is a timely moment to consider the merits of adopting the levy in Central Lancashire, and begin to prepare a Draft Charging Schedule.
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Christina Marginson	01772536776	christina.marginson@lancashire.gov.uk	JAC Report – CIL
Background Papers			
Document	Date	File	Place of Inspection
The Community Infrastructure Levy Guidance: Charge Setting and for changing schedule procedures.	March 2010		http://www.communities.gov.uk
The Community Infrastructure Levy: Summary	November 2010		http://www.communities.gov.uk
The Community Infrastructure Levy: Overview	November 2010		http://www.communities.gov.uk
Planning Act	2008		http://www.communities.gov.uk
Localism Bill	January 2011		http://www.communities.gov.uk